SENATE—*Tuesday, May 20, 1975*

The Senate met at 11 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:

Almighty God, Ruler of all nations and peoples, we pray Thee to guide all who have power over the lives of others. Guide all leaders whoever they may be and wherever they may serve. We pray for the President of this Nation and his counselors, for the Senate and House of Representatives assembled in Congress, for all who serve in courts, all officers who are custodians of the law, for statesmen, diplomats, and members of the Armed Forces, all speakers, writers, and others who mold the thoughts and conduct of the people. Grant them wisdom and restraint, high ideals and clear vision, and thus grant to our Nation good homes, unselfish public service, honest business and labor, sound learning, and pure religion, to the good of all and the honor of Thy name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, May 19, 1975, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

NATIONAL POLICY THAT ALL CITIZENS HAVE THE RIGHT TO LIVE AND WORK IN A BARRIER-FREE ENVIRONMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 139, Senate Concurrent Resolution 11.

The PRESIDENT pro tempore. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 11) to express as a national policy that all citizens have the right to live and work in a barrier-free environment.

The PRESIDENT pro tempore. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

SENATOR RANDOLPH URGES RESOLUTION TO ELIMINATE BARRIERS TO HANDICAPPED

Mr. RANDOLPH. Mr. President, through the adoption of Senate Concurrent Resolution 11, the Senate will reaffirm its commitment to taking every step possible to guarantee that America's handicapped population may enjoy equal access to employment, transportation, housing, recreation, and to public buildings and services. It is the objective of this resolution to commit the Congress to a national policy which recognizes the right of all citizens to the free use of the manmade environment.

At least 10 percent of the population of the United States has a temporary or permanent physical handicap that results in limited mobility. For these millions of citizens, there are countless barriers obstructing their right to travel, to be employed, to enter public buildings, and even to vote.

Senate Concurrent Resolution 11 may be considered a focal point for marshaling a nationwide effort in both the public and private sectors to eliminate environmental barriers to handicapped individuals. Already, resolutions have been introduced in State legislatures to accomplish purposes similar to those in Senate Concurrent Resolution 11. Activity is going forward in the private sector as well. Some of these efforts are described in the report on this resolution.

The adoption of Senate Concurrent Resolution 11 coincides with the upcoming National Awareness Week cosponsored by the National Easter Seal Society for Crippled Children and Adults and the National Paraplegia Foundation. These organizations are promoting the week of June 30 to July 6 to inform and motivate the public to help eliminate environmental barriers faced by the 10 percent of all Americans who have limited mobility due to a temporary or permanent disability. These organizations have asked that Members of Congress endorse National Awareness Week in public statements and addresses to constituents during the week of June 30 to July 6.

It is important that all citizens understand that handicapped individuals have the right and the responsibility to actively and productively participate in the life of the community and that, together, handicapped and able-bodied alike must work to remove existing barriers and work toward the full development of the economic, social, and personal potential of all citizens through the free use of the manmade environment.

I join the National Easter Seal Society for Crippled Children and Adults and the National Paraplegia Foundation in calling on all citizens to take cognizance of special events arranged for this National Awareness Week and to join in breaking the barriers which confront our handicapped citizens.

I urge adoption of Senate Concurrent Resolution 11.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

Whereas it is estimated that one out of ten persons in the United States today has limited mobility due to a temporary or a limited physical handicap; and

Whereas improved medical techniques and an expanding population of older persons is increasing the number of persons with limited mobility every year; and

Whereas the physical environment of our Nation's communities continues to be designed to accommodate the able-bodied, thereby increasing the isolation and dependence of disabled persons, and to break this pattern requires a national commitment: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that there shall be a national policy to recognize the inherent right of all citizens, regardless of their physical disability, to the full development of their economic, social, and personal potential through the free use of the manmade environment, and that the adoption and implementation of this policy requires the mobilization of the resources of the private and public sectors to integrate handicapped people into their communities.

A REASON TO BE THANKFUL

Mr. HUGH SCOTT. Mr. President, the Chaplain's prayer reminds me of another one which goes like this:

For all things bright and thoughtful,
All creatures great and small;
For all things wise and wonderful,
We thank Thee, Lord of all

We have special reason to be thankful this week. I hope that my Government always will act with wisdom, with restraint, with strength, and with firmness, to do that which it conceives to be right and for the preservation of our country, its security, and its citizens.

ORDER OF BUSINESS

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

NEW FOREIGN POLICY FOR UNITED STATES IN ASIA

Mr. GOLDWATER. Mr. President, because this week and next week a number of Members of this body have decided to discuss foreign policy at the same time we will be discussing weapons authorization, I desire to open that colloquy this morning.

We no longer have a foreign policy for Asia. It lies in tatters as a direct result of the Vietnam debacle. The seeds of failure, however, are rooted much further afield.

For more than 30 years, the brew has been a-boiling. Vietnam was perhaps the best example of the naivete and stupidity of American liberalism at work. For a third of a century, and culminating in Vietnam, American liberals have failed to either understand Asia or, alternately, to delineate America's true interests in that vast and important region. Let me throw out a few random thoughts to illustrate my contention.

In terms of Asian understanding—or should I say "misunderstanding"?—they

assumed that they knew the best form that Asian politics should take, and politician and pundit alike never ceased to instruct Asians accordingly. Significantly, they had the prescription for turning ancient cultures into liberal replicas of "developed" countries where each Asian was to march to the tune of an American liberal drummer as he shrugged off the beliefs and certainties that had sustained his culture for millenia.

While they babbled sloppy sentimentality about "democracy" in India, they sought to overthrow "dictators" in Vietnam. When they decided to go to war in 1962, they espoused such nonsense as "winning the hearts and minds of the people" instead of a clear-cut military strategy.

They degraded military strategy. In lieu, they espoused aid projects that almost invariably failed. They then blamed the local people for attempting to make end runs around their stupidity.

When one social nostrum failed, their ingenuity proved endless—new nostrums proliferated. With the best of liberal intentions they sought to bring Western educational forms to Asian masses and ended up giving these to the rich. They wrung their hands over India's starving millions but failed to point out that India runs twice as many cows as does the United States—but does not use them for human sustenance—or, that if even two of India's provinces were farmed by modern means, the country would be grain sufficient.

For some reason, America's liberals could never see that the slightly chaotic individualism of non-Communist Asia held greater hope for the democratic growth than did Mao's regimentation. More sinisterly, these same people who bowed politely when Mao Tse-tung conquered China, said nothing when Mao slaughtered perhaps 30 million people; because to these same liberals, there are "no enemies to the left."

I could go on and on, citing sad event after sad event of this disastrous American venture in Asia. The time has come, however, not to divide ourselves further by assigning blame but to seek out new policies. Neither, however, can we sweep these vast historical events under the rug and pretend they came about accidentally and not through actions arising from a particular style of American thought—liberalism. But, before we can have new policies we must first get rid of these liberal philosophies and of the men who formed them. I will try to challenge the philosophy and I will leave it to you to get rid of the men.

For my part, let me offer some thoughts, different thoughts, from those liberal philosophies which have brought such human tragedy and material loss to so many Asians and to ourselves.

I would like to divide my talk into two main themes: What is the American interest in Asia? And, what are the military, political and economic policies to attain and preserve those interests?

Besides ourselves, three great powers border the Pacific: The U.S.S.R., the Peoples' Republic of China, and Japan. Here, along with Southeast Asia, at the more southern extremity, we find almost a third of the world's peoples. The vast Pacific Ocean links them to the United States, and the varying postures these yet diverse peoples adopt cannot be ignored by the United States, neither militarily nor economically. Let me give an example or two.

Between China and the Soviet Union there is a geopolitical conflict gravely complicated by racial coinflict and ideological division. As but one illustration of this, let me mention the Soviet Union's eastern Siberia, which for over 100 years both tsar and commissar have been trying to develop and populate. In this 100 years, approximately 14 million Russians have migrated into this vast region.

In the same time, however, just across the border in northwestern China, some 100 million Chinese have moved northward without any government stimulus. And, now held back by a mere political boundary, this Chinese mass looks out over the vast empty Amur River Valley, a territory as large as our Mississippi River Valley. This is but one aspect of a now tense relationship which dominates Sino-Soviet relationships and in turn affects the entire planet.

Soon the situation will become more dangerous; that is when Mao Tse-tung dies. What then will the Soviets do, especially if there is a power struggle in China, as is highly likely, with resulting internal divisions? The temptations for the Soviets to intervene will be extreme. Think of the prize-removal of the threat and perhaps the resumption of the Sino-Soviet alliance, but this time with the Soviets in the driver's seat. Here, indeed, would be the Communist monolith that the Communist theoriticians have dreamed for half a century. It almost came about in the 1950's, and would have, except for Mao's ideological purity. Here then is one possibility. Another possibility is that the Chinese would successfully resist the Soviets should they attempt intervention. In doing this the Chinese would use nuclear weapons. In this case, could the Soviets afford to expend a large proportion of their nuclear arsenal upon China and by doing so, leave the United States with an overwhelming nuclear superiority? In essence, could they afford to win against China while giving the global victory to the United States? Again, I think not. Both sides would make every effort to involve us, including the ultimate of nuclear strikes upon the United States.

As yet another example, let us look at the position of Japan, and especially, its relationship to Korea. Japan now has the third largest economy in the planet. Japan absorbs the bulk of the U.S. agricultural exports and, in turn, we are Japan's best customer. It is a relationship in which both sides have benefited and these benefits are likely to increase and go on indefinitely. No matter how one looks at it, that is a significant relationship, not only in terms of mutual benefit but also in terms of world stability. Yet, grave problems may arise in the not too distant future. Japan has no significant military power—for this, Japan is dependent upon the United States. Yet, perhaps sooner than we think, Korea, the ancient land bridge between Japan and the Asian mainland, could come under Communist attack. There are approximately 40,000 American soldiers in South Korea, and we are pledged to preserve the integrity of South Korea. Despite this, I have grave reservations whether or not we would. It is not a matter of military capability but of national will. Now, Mr. President, if you were a Japanese and you saw the situation this way, how would you react? Japan could build nuclear warheads and delivery systems rapidly and if her American mentor has lost his stomach, why not? What else might Japan do? Throw in the towel and aline with the Communist powers? For us, that is an even more frightening prospect.

I hope and pray that none of this will happen but all of it is inherent in the international relations of the region. I know, too, that Americans do not like to hear these scenarios. I am giving a view of the world that is antipathetic to our historical beginnings and our concept of the world as it ought to be, and I have no doubt that my liberal friends will again level their vigorous accusations against me for being bellicose or worse. They have done this before. But the whole history of this terrible century in which we find ourselves belies their objections. The history of this century is the history of forces I have described at work—and they are still at work. And, how might the worst be prevented? Only by an America with the sufficient military power decisively to swing the balance in a manner that preserves global stability. But to do this, we must first build the military forces. Second, we must develop a strategic sense, something almost absent from American thinking. Third, we must develop and employ a forward diplomacy with all of the nations in the region. The essence of this diplomacy must be a vigorous sense of our national aims and purposes; an intimate knowledge of the political aspirations, and capabilities of each Asian friend or adversary; a sense of, and a policy related to the cultural history and cultural nuances of each Asian state, and, based upon all of these, an ability to look ahead and be prepared for all eventualities. Such preparation must include, however, one vital ingredient hitherto absent from out policies and actions.

We must not only know what we ought to do in certain eventualities but also what we cannot do. I believe we can, for example, win military victories and this is a vital ingredient. But, we are unlikely to "win hearts and minds"—and one is not dependent upon the other, despite what my liberal friends might suggest. We can clearly tell both friend and foe where we stand and what we expect from them. But, we should not go further and try to remake some other nation's politi-

cal or social fabric in some fashion then currently in favor in Washington.

In essence, we must face the realities of the world as it is and not what we would like it to be. Any other posture, especially that of substituting social and political engineering for diplomacy and military strength, spells disaster for the future perhaps even greater than the one we have just endured.

We must employ the two elements critical to maintain strategic stability; namely, an appropriate forward diplomacy and the military power to back it up. This is enough to get the job done.

Now, let me turn to some other issues where I think we must abandon the illusions of the past. I am specifically thinking of economic aid. This was to be the great "wonder worker." American-built roads, American agricultural practices, American machines, American education, just plain old American money was supposed to quickly bring about something called "economic development" and, in turn, this was to lead to stability and order and, in turn, this was to lead to democracy—American style—and thence to peace and tranquility. Of all the liberal shiboleths, I think this one was the worst.

We must change it. Let me give some thoughts. I shall begin with a maxim or two.

First, economic development does not bring peace by itself. Hitler's Germany was in a vigorous phase of economic development in 1939. Second, a people cannot achieve any kind of economic development through others that they are not ready to achieve in some degree by themselves. Third, the inability of a nation to attain economic development is rarely a technical inability. Such inabilities, where they exist, are easily rectified.

The real elements curbing economic development are political systems, ideologies, bureaucracies, and cultures. Let me give some examples. The Mekong River, one of the world's great rivers, could, if it were properly harnessed for irrigation, energy, and navigation, give to Southeast Asia the material resources for an economic development program as significant as was the Marshall plan for Europe. The scheme was first mooted more than 20 years ago, but war, political incompetence, ethnic hostility, and ideology have reduced the scheme to nullity. Compared to these issues the technical aspects of the Mekong scheme are relatively simple.

To move farther afield to India, a country living close to starvation, we find that after large government investments in agricultural colleges, there are more than 20,000 persons with agricultural degrees who are totally unemployed. In that same country, there are as many more people with agricultural degrees employed within the bureaucracy as clerks.

It is doubtful if even 20 percent of the trained agriculturists are in the field. The same country criticizes us for feeding grain to cattle, yet their 300 million animals forage at will and depreciate India's already slender resources without giving any return to their human fellow inhabitants. I have no objection to India worshipping cows—that is their business. But, neither can they play both sides of the street: demand American grain which we indeed do feed to cattle, while their cattle are a materially negative factor in any concept of land use. I know that all in this room have other examples and if I had time I could quote many more.

Now, let me make a proposal for aid in a different form. My proposal has several features. First, money should never be given in any form and least of all to obtain political gain for us. This simply does not work. Instead, it should be loaned, but only loaned in accordance with strict, bona fide banker's standards. No other kind of loan should be contemplated. In other words, every developmental project should be assessed a priori as to whether or not it has a viable economic future of sufficient dimension not only to achieve preset economic goals, but also to pay back the original investment. Such repayment also insures that further lending can be made for development and the process can be then indefinitely continued.

The Asian countries, with our help, have already set up an Asian development bank. Let us get it going. All we must do is insure that it employs the best banking standards.

Second, let us not recoil from putting strings on aid providing they are the right kind of strings. Who should decide what is right? Basically we should.

Presumably, if we are lending for a particular project, we know a good deal about it and to set standards under these conditions is not only right but a duty. For example, why should not agricultural aid to India be tied to the establishment by India of an Indian equivalent of the magnificient Joint Commission on Rural Reconstruction which has performed so superbly for the Republic of China in Taiwan?

Third, by lending and not giving, we would at once kick away the giving of money as a prop to our diplomacy in a given country. You cannot buy allies any more than you can friends. For too long now the American diplomat has used those taxpayer's dollars which passed through his hands as a spurious substitute for vigorous representation of the American position. Getting people on your side because they are being paid to do so is not the same as telling them where America stands, what we will do, why we will do it and under what circumstances. As a result of this dependence upon the aid dollar, American diplomacy has become weak and supine as does that rich man's son towards whom daddy directs constant largesse. All in all, aid has hurt our diplomacy more than it has hurt even the recipient. Most importantly of all, as giving money does not buy friends neither does it buy allies. We should have learned this by now.

We shall obtain allies only when those potentially in this category know that their vital interests are related to an American interest and to an America that means what it says. For this, there is no substitute in any alliance, and it has little to do with dollars.

Fourth, if our liberal friends are correct in that they truly wish to encourage "nation building" as a part of economic development, well then, may I ask, "how is that task forwarded by making a nation your dependent?" Amongst many other things Vietnam surely taught us that lesson. I believe lending rather than giving is the proper posture for "nation building." For example, instead of tying giving—or lending—to the purchase of American products, let the recipient in full independence take his money to the open market and if we cannot compete with our product, so be it. Similarly, let them hire and fire what foreign experts they need. If they do not like our people, why should these be forced on them? At least give developing nations this much independence.

Here then is a program which costs less because it becomes self-sustaining; stiffens our diplomacy; promotes independence and, if the bankers are any good, will get the job done. I believe, too this is a program the American people would understand and support.

As I have said, we do not have a foreign policy any longer for Asia; any semblance for such disappeared with Vietnam, and the erosion continues.

I interject, Mr. President, that this paper I am presenting was written before the courageous and wise action of the President relative to the ship and Cambodia. I think that signals a foreign policy that has historically been linked with America.

Thailand is the latest. Here is a traditional ally which has now said to us, Thailand's ally and most powerful country in the world, "an alliance with you is a liability—go!" Thailand's posture should prompt some thought and as I think has been generally recognized, our credibility to both friend and foe is now at zero in Asia. Yet, as I see the future in Asia, we Americans and the world at large face incredible dangers in the region which cannot be avoided.

The basic aim of Communist hegemony is alive and well. Whether such be sponsored by the Soviets, the People's Republic of China, or both. Peaceful coexistence became détene but either, if one believes the Communist theoriticians, are but tactics of warfare. The Communist powers believe that the capitalist world is collapsing of its own contradictions. They believe that direct confrontation at this time would only alert the capitalists to these dangers. Confrontation in the form of active warfare is held for later for the coup de grace.

I have talked of but a tiny percentage of the dangers that lie ahead of us. But Asia is also full of vast opportunities. These exist in terms of trade and commerce, intercultural relations and the building of a peaceful, stable world. But, we must take action. The old ideas and

their initiators must go. If we do not find new ideas and new men we will retreat from Asia into a narrow isolationism. What else can the old ideas and their initiators do but that? But, that will not remove the dangers. All it will mean is that we shall wake up one fine morning—as we did with Cuba—and find that our national lethargy has painted us into a corner from which escape will at best be precarious for us and dangerous to everyone on this planet.

The nuclear confrontations that our liberal friends, or new isolationists, so much deplore will then be upon us. I especially call upon my colleagues in Congress to demand of the Executive, new concepts, new initiatives, and new long-term programs and these can only arise with new men. We have such persons. Let us tap some of our latent human resources and get the job done. The stakes are high. The time is short.

Let me offer six planks upon which I believe a new policy for our country in Asia needs be fashioned.

First, we must promote vigorous but equitable trading relationship with all our Pacific neighbors with the object of promoting our mutual economic stability. For too long trade and commerce have been divorced from foreign policy with the latter lapsing more and more into an academic plaything too pristine to be contaminated by the marketplace. This must stop. Foreign policy and trade are intertwined. Surely the Middle East situation has taught us this much. Let us then admit a reality long in being but short on recognition. We want a large and growing trade with Asia and this is a diplomatic task. Sure, we shall be accused of economic imperialism. That will happen anyway. In this case, let us be honest economic imperialists and I assure you that we will at least obtain respect and we will gain economic benefit for ourselves and our trading partners.

Second, let us formulate a new aid policy. I have given an outline today and let me add a few thoughts.

Our objectives should be simple. Never dependency; lend, not give, and promote thereby independence for those who work at it. And let us not be squeamish regarding establishing criteria for aid. For if we do not know how to do a job in its total technical, economic, political, and cultural content then we should stay away from it until we do.

Third, in conjunction but not in conflict with this new aid policy we should declare a policy of noninterference in any other nation's internal affairs especially relative to ancient cultural fabrics. Our interest in a nation's integrity should arise only when an attempt is made to export to that nation an alien political value by force and our help is sought. There should be no doubt in our minds, however, that if we have, after deliberation, entered into a commitment with a friend, we will intervene, decisively and quickly, and leave equally quickly and cleanly when the aggression has been stopped.

Fourth, we must quickly, within the next year, formulate a key statement relative to the Pacific Basin, basically incorporating what I have enumerated so far and declaring that no power or group of powers will be permitted to exercise hegemony over the Pacific Basin.

Fifth. We must create the military power, in degree and of a kind, to support our policies.

Mr. President, I emphasize this because, beginning today or tomorrow, there will be a debate dragged on to some extent by those people in the Senate who want to isolate America and unilaterally disarm us at the most critical time of our history. I suggest that foreign policy, the authorization and appropriations for military uses are woven together as one.

Last and most important of all, let us begin a forward diplomacy with friend and adversary alike with the objective of removing any doubt as to what our policy is, the nature of our strength and the validity of what has to be a new national resolve. I think you will be surprised, should we perform this diplomatic task promptly and skillfully, at the number of friends who yet remain. They await our leadership. It is our role in history to provide such. They will respond.

Thus, I am stating two things. First must be a firm abandonment of the old liberal policies that have brought us to this sad and even desperate strait. Second, I ask instead for a new American realism. It will call for new concepts, new skills and new men. I know that we have all three in profusion if we will but call on them.

I thank the Chair for the courtesy and the Senators for their patience in listening to me.

I relinquish the floor.

(At this point Mr. GLENN assumed the Chair.)

ROUTINE MORNING BUSINESS

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

JACKSON URGES OVERRIDE OF STRIP MINE VETO

Mr. JACKSON. Mr. President, it is with deep regret that I have learned that President Ford has decided to veto the Surface Mining Control and Reclamation Act of 1975. Unless the Congress overrides this ill considered action, the uncertainties which have plagued the coal industry, particularly with respect to proposals for coal gasification and liquefaction, will continue.

Congress has been considering surface mining legislation since 1967. The bill which the President has vetoed is the end result of intensive work in both the Senate and the House of Representatives in the last 4 years.

The Senate approved the bill by an 84–13 vote. The most recent vote in the House of Representatives was 293–115. This overwhelming support reflects the feelings of the American people.

In February, the President indicated that there were 27 "critical" and "important" changes which he wanted Congress to make in the legislation which he pocket-vetoed in the 93d Congress. The bill which he has now vetoed again included over half of these changes. Congress has made every effort to cooperate with the President. Unfortunately, the President has not reciprocated.

Apparently, the President has fallen victim to the vague estimates of "production losses" submitted to him by the Federal Energy Administration. Despite repeated requests, neither FEA nor the Interior Department has supplied me with any rationale for these estimates.

The fact is that at current production levels, this country has more than 500 years of coal reserves. It is ridiculous to talk about a diminution in production at present prices, which are three to four times prices of 2 years ago, much less those anticipated in the future. It is even more ridiculous, given the massive amount of our coal reserves, to refuse to assume the relocation of mining operations, for example, to areas which can be prudently mined—in estimating the impact of this bill.

The Surface Mining Control and Reclamation Act will internalize mining and reclamation costs, which are now being borne by society in the form of ravaged land, polluted water, and other adverse effects, of coal surface mining. This can be done without significant losses in coal production.

Mr. President, I urge the Congress to override the President's veto. I ask unanimous consent that my letters of May 12 and May 16 to the President and the telegram sent to President Ford by the president of Gulf Oil Corp. be included in the RECORD.

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

U.S. SENATE,
Washington, D.C., May 12, 1975.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Once again, the Congress has passed the surface coal mining legislation. The bill pending before you is the product of over four years of intensive work in both the Senate and the House of Representatives. The Senate approved the bill by an 84–13 vote. The most recent vote in the House of Representatives was 293–115. This overwhelming support reflects the feelings of the American people.

Last December, you pocket-vetoed the surface coal mining bill approved by the 93rd Congress. In February, you indicated that there were 27 "critical" and "important" changes which you wanted Congress to make in that legislation. Both the House and the Senate considered your recommendation very

carefully. The bill sent to you last week adopts over half the changes which you recommended.

I firmly believe that the bill now before you for approval achieves a balance between the need to protect the environment and the need to develop our coal reserves to meet our national energy requirements. Your approval of H.R. 25 will allow the coal industry to get on with the development of our coal resources.

I am aware that the Federal Energy Administration has expressed concern over possible production losses which might be caused by the requirements in this legislation. While I have attempted to obtain from the FEA the analyses, data, and assumptions on which these estimates were based, the only information I have received is a breakdown of loss estimates. It does not indicate the rationale behind the estimates.

However, this information does indicate that the major portion of the estimated loses are attributed to the protection which the bill gives to alluvial valley floors in the West. These estimates are clearly based on erroneous interpretations of the provisions of the legislation designed to protect a small but critical area of agricultural lands. Both the Geological Survey and the Bureau of Mines personnel have publicly stated that their past estimates were wrong because they had not read the legislation accurately. For example, on April 29, the Assistant Secretary of the Interior for Energy and Minerals told the conferees that over 97% of the agricultural lands in the Powder River Basin consist of undeveloped range land. Such land is expressly excluded from the strict limitations on permit approval.

The fact is that at current production levels, this country has more than 500 years of coal reserves. It is ridiculous to talk about a diminution in production at present prices, which are three to four times prices of two years ago, much less those anticipated in the future. It is even more ridiculous, given the massive amount of our coal reserves, to refuse to assume the relocation of mining operations, for example, to areas which can be prudently mined—in estimating the impact of this bill.

The conference report will internalize mining and reclamation costs, which are now being borne by society in the form of ravaged land, polluted water, and other adverse effects, of coal surface mining. This can be done without significant losses in coal production.

I urge you to approve H.R. 25.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

U. S. SENATE,
Washington, D.C., May 16, 1975.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I have received a copy of the telegram sent to you by James E. Lee, President of Gulf Oil Corporation in which he urges you to veto the Surface Mining Control and Reclamation Act.

I do not quarrel with Gulf Oil's right to express their views although I certainly disagree with their conclusions. However, I would point out to you that one of the three "unnecessary restrictions" they cite is a totally incorrect description of the provisions of Section 714 (not 717) of the Act. This section is designed to protect a limited class of owners of land overlying Federal coal. Mr. Lee's telegram states that there is a "limit of $100 per acre on surface owner compensation". This is wrong, as I am sure your legal advisors will confirm. Unfortunately, this kind of misinformation is typical of the coal industry's complaints about the surface mining bill.

For example, some mining operators have argued that the environmental standards pertaining to steep slopes are unnecessary. You may be interested to know that Gulf Oil's coal mining subsidiary, the Pittsburg & Midway Coal Mining Company, recently sent me a brochure entitled "Independence With Coal". On page 6 of that brochure there is a description of contour surface mining which is extensively practiced in steep mountainous areas. The brochure states: "Considering the long-term environmental and resource costs and that only a very small percentage of our coal is produced in this manner, contour mining on steep slopes should probably be discontinued until acceptable reclamation techniques are developed."

Gulf also cites the restriction on alluvial valley floors. As I indicated in my May 12 letter, the Department of the Interior indicates that the restriction applies to less than 3% of the land and only 2% of the strippable coal in the Powder River Basin.

I once again strongly urge that you approve the Surface Mining Control and Reclamation Act of 1975 so that the nation can proceed to develop its coal resources in an environmentally sound manner.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

GULF OIL CORP.,
May 7, 1975.

President GERALD R. FORD,
The White House,
Washington, D.C.

We urge you to veto the Surface Mining Control and Reclamation Act. We urge this action despite the fact that Gulf and its coal mining subsidiary, the Pittsburg & Midway Coal Co., strongly support effective reclamation measures, and have been reclaiming land for many years.

But the present act goes far beyond steps needed, even for rigorous reclamation. It would reduce environmentally sound production of coal by as much as 22 percent in the first full year of operation. Our mining engineers estimate that the act will result in at least an 8 percent increase in consumers' electricity bills. Most of the cost increase results from restrictions which go far beyond the need for environmental protection.

Potential western coal production will be severely curtailed primarily because of three unnecessary restrictions:

First, the prohibition on mining in alluvial valley floors, section 510(b)(5), would prevent the temporary withdrawal of reclaimable land from actual or potential ranching or farming operations. It implies that in most instances ranching or farming is more important than coal production. Such a choice does not have to be made. Farm land temporarily diverted to coal production can be returned to productive farming in a relatively short time.

Second, the act (section 717) grants the surface owner the power of veto over mining operations, while the limit of $100 per acre on surface owner compensation removes the incentive for him to consent to mining operations. In many cases he would be denied reasonable compensation by the law.

Third, other provisions require laborious administrative actions (including section 507) and encourage mine by mine litigation which at best would delay, and in many cases would prohibit production of significant coal resources.

We agree that land which cannot be reclaimed should not be mined. However, the 130,000 acres of western coal lands which should be mined by 1985 to meet energy needs, can be reclaimed. And this is a relatively small area—less than is put into parking lots throughout the Nation in one year.

The Surface Mining Control and Reclamation Act, unfortunately, exceeds the needs of environmental protection, would seriously retard our coal production, and would result in unnecessarily high imports of foreign oil. We urge you to veto this legislation.

JAMES E. LEE,
President.

ASSISTANCE TO MIGRANTS AND REFUGEES

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6755.

The PRESIDING OFFICER (Mr. GLENN) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 6755) to enable the United States to render assistance to, or in behalf of, certain migrants and refugees, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the presiding officer appointed Mr. SPARKMAN, Mr. MANSFIELD, Mr. CHURCH, Mr. CASE, and Mr. JAVITS conferees on the part of the Senate.

MESSAGES FROM THE PRESIDENT

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

PROPOSED REVITALIZATION ACT—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States transmitting proposed legislation entitled "The Railroad Revitalization Act," which, with the accompanying papers, was referred to the Committee on Commerce. The message is as follows:

To the Congress of the United States:

I am today sending to the Congress the Railroad Revitalization Act. This legislation is the result of several years of study and consultation with industry and Congressional authorities. It builds on the Surface Transportation Act which was overwhelmingly passed by the House of Representatives last December. In view of the prior work in the 93rd Congress and the serious needs of the Nation's railroads, I am confident that the Congress can and will act quickly.

The purpose of this legislation is threefold: (1) To improve the regulations un-

der which the railroads operate and promote economic efficiency and competition, (2) to provide necessary financial assistance to improve and modernize rail facilities, and (3) to encourage rational restructuring of the Nation's railroads and improve their long-term viability. To achieve these objectives, the legislation proposes specific amendments to the Interstate Commerce Act to permit increased pricing flexibility, to expedite ratemaking procedures, to outlaw anticompetitive rate bureau practices and to improve and expedite merger and other restructuring actions. In addition, the bill will make available $2 billion in loan guarantees.

Submission of this bill is part of my Administration's overall program to revitalize our entire free enterprise system. It is the first of several legislative proposals seeking fundamental reform of the regulatory practices which govern the economics of the transportation industry. Such regulation, established long ago, in many instances no longer serves to meet America's transportation or economic needs. Consumers too often bear the costs of inefficient regulation in the form of either inadequate service or excessive cost. Therefore, in addition to this railroad bill, I will soon submit proposed legislative reforms for both trucking and airline regulation. Taken together, these proposals, when enacted, could save consumers billions of dollars annually and conserve substantial amounts of scarce energy resources.

While I recognize the state of our entire transportation system needs treatment, I am well aware that the Nation's railroads are in a crisis. Large parts of the rail system are in a state of physical deterioration. Some railroads are in bankruptcy and others are on the brink of financial collapse. For this reason, I am sending to the Congress railroad reform proposals first, and I urge action without delay.

The rail problem has been neglected too long and the desperate condition of the industry is indicative of this neglect. We must begin at once a major and massive initiative to restore the vitality of this essential industry. I have established for this Administration a goal that calls for the complete revitalization of the Nation's railroad system so it can serve the needs of modern America. We are moving forward with a program to assure a healthy, progressive rail system. The Railroad Revitalization Act is a critical part of this program. I have directed the Secretary of Transportation to lead this effort and to make its achievement one of his prime concerns.

A major problem faced by the railroad industry is outdated and excessive Federal regulation. Much regulation, originally imposed to prevent monopoly abuses and promote development in the western States, has long since outlived its original purposes. Indeed, Federal regulation has grown so cumbersome that it retards technical innovation, economic growth, and improved consumer services. The legislation I propose will improve significantly the regulatory climate in which all railroads operate. Removal of unnecessary and excessive regulatory constraints will enable this low-cost, energy-efficient form of transportation to operate more effectively, to provide better service, and to more fully realize its great potential. The increased efficiencies resulting from these reforms will produce energy savings on the order of 70,000 barrels of oil per day.

In addition to improving the regulatory environment in which the Nation's rail system functions, this legislation will make available to the rail industry financial assistance which it must have to accomplish necessary modernization of outdated plants and equipment. This assistance will be in the form of $2 billion in long-term loan guarantees so that the Nation's railroads can repair deteriorating roadways and obtain badly needed modern equipment and facilities at reasonable costs. In addition, discriminatory State taxation of the rail industry will be outlawed.

The legislation will also provide special procedures to hasten major restructuring of the rail industry by enabling the Secretary of Transportation, as a condition for granting financial assistance, to require applicants to undertake fundamental restructuring actions. These actions will be governed by expedited merger procedures under which the Secretary and the ICC can facilitate the desired restructuring. I have directed Secretary Coleman to take all steps necessary to cooperate with the Congress so that this important and vital legislation can become law in the very near future.

In view of the rail system's role in our Nation's economy, I urge the Congress to give this measure immediate consideration. The importance of regulatory reform to the efficiency of our transportation system cannot be over-emphasized. While special interests may resist these necessary changes, I am confident that the benefits to the American people will be so great and so clear that the Congress will act quickly.

GERALD R. FORD.

THE WHITE HOUSE, *May 19, 1975.*

APPROVAL OF BILL

A message from the President of the United States announced that on May 20, 1975, he had approved and signed the enrolled bill (S. 172) to revise certain provisions of title 5, United States Code, relating to per diem and mileage expenses of Government employees, and for other purposes.

MESSAGES FROM THE HOUSE

At 11:04 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 12. An act to amend title 3, United States Code, to provide for the protection of foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes;

H.R. 4073. An act to extend the Appalachian Regional Development Act of 1965 for an additional 2-fiscal-year period;

H.R. 5217. An act to authorize appropriations for the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize appropriations for bridge alterations, to authorize for the Coast Guard an end-year strength for active duty personnel, to authorize for the Coast Guard average military student loans, and for other purposes;

H.R. 5447. An act to amend the act of August 16, 1971, as amended, which established the National Advisory Committee on Oceans and Atmosphere, to increase and extend the appropriation authorization thereunder;

H.R. 5709. An act to extend until September 30, 1977, the provisions of the Offshore Shrimp Fisheries Act of 1973 relating to the shrimp fishing agreement between the United States and Brazil, and for other purposes;

H.R. 5710. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1976 and for the transition period following such fiscal year, and for other purposes; and

H.R. 6054. An act to authorize further appropriations for the Office of Environmental Quality, and for other purposes.

H.R. 4241. An act to designate the John C. Kluczynski Federal Building.

The message also announced that the House insists upon its amendments to the bill (S. 1236) to extend and amend the Emergency Livestock Credit Act of 1974, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BERGLAND, Mr. POAGE, Mr. DE LA GARZA, Mr. BALDUS, Mr. ENGLISH, Mr. RICHMOND, Mr. HIGHTOWER, Mr. WAMPLER, Mr. FINDLEY, and Mr. MADIGAN were appointed managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6755) to enable the United States to render assistance to, or in behalf of, certain migrants and refugees; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. RODINO, Mr. SARBANES, Ms. HOLTZMAN, Mr. DODD, Mr. RUSSO, Mr. FISH, and Mr. COHEN were appointed managers of the conference on the part of the House.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the enrolled bill (H.R. 4269) to amend the Organic Act of Guam and the Revised Organic Act of the Virgin Islands.

The PRESIDENT pro tempore subsequently signed the enrolled bill.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A petition from the West Suburban property owners and taxpayers, of Berwyn, Ill.,

seeking a redress of grievances; to the Committee on Government Operations.

House Joint Resolution No. 62 adopted by the Legislature of the State of Montana; to the Committee on Interior and Insular Affairs:

"A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE FEDERAL GOVERNMENT'S ENERGY POLICYMAKERS TO CONSIDER THE NEEDS OF THE AMERICAN PEOPLE AS WELL AS THE NEEDS OF ENERGY SUPPLYING CORPORATIONS

"Whereas, corporations dealing in petroleum and other fossil fuels have been known to contribute large amounts of money to various state and national political campaigns, and

"Whereas, various national administrations have been known to appoint numerous fossil fuel industry executives to decision-making positions, especially regarding national energy policy; and

"Whereas, these appointees have considerable influence in shaping the energy policies of the United States; and

"Whereas, the energy policy of the United States has been more rapid development of fossil fuels, at the expense of several 'national sacrifice areas'; and

"Whereas, the energy policy of the United States has not provided adequately for the consideration of energy conservation and/or alternative energy sources; and

"Whereas, the energy policy of the United States has provided little restraint to the profiteering by fossil fuel corporations at the expense of the American economy and the American consumer.

"Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

"That the government of the United States of America is respectfully requested to consider the interests of all the American people, not just the fossil fuel corporations, in formulating national energy policy.

"Be it further resolved, that copies of this resolution be mailed to every member of the United States Congress, the director of the Energy Research and Development Administration, the Secretary of the Interior, and the President of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 557. A bill to declare that certain land of the United States is held by the United States in trust for the pueblo of Laguna (Rept. No. 94–147).

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

S. 217. A bill to repeal the Act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico (Rept. No. 94–148).

By Mr. BENTSEN; from the Committee on Public Works, with an amendment:

S. 952. A bill to provide States unable to meet the matching requirements for Federal-aid highway funds with moneys to cover Federal Highway Administration apportionments (together with additional views) (Rept. No. 94–149).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 12. An act to amend title 3, United States Code, to provide for the protection of foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes; to the Committee on Public Works.

H.R. 4073. An act to extend the Appalachian Regional Development Act of 1965 for an additional 2-fiscal-year period; to the Committee on Public Works.

H.R. 5447. An act to amend the act of August 16, 1971, as amended, which established the National Advisory Committee on Oceans and Atmosphere, to increase and extend the appropriation authorization thereunder; to the Committee on Commerce.

H.R. 5709. An act to extend until September 30, 1977, the provisions of the Offshore Shrimp Fisheries Act of 1973 relating to the shrimp fishing agreement between the United States and Brazil, and for other purposes; to the Committee on Commerce.

H.R. 5710. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1976 and for the transition period following such fiscal year, and for other purposes; to the Committee on Commerce.

H.R. 6054. An act to authorize further appropriations for the Office of Environmental Quality, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 4241. An act to designate the John C. Kluczynski Federal Building; to the Committee on Public Works.

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. BUCKLEY:

S. 1771. A bill for the relief of Branka Mardessich and Sonia S. Silvani. Referred to the Committee on the Judiciary.

S. 1772. A bill to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button. Referred to the Committee on Armed Services.

By Mr. FONG:

S. 1773. A bill to amend section 104(g) of title 23, United States Code, relating to the transfer of funds from the rail-crossing program to other uses. Referred to the Committee on Public Works.

By Mr. PERCY:

S. 1774. A bill to reorganize the executive branch of the Government by abolishing the Federal Metal and Nonmetallic Mine Safety Board of Review and transferring the functions and powers of such Board to the Secretary of the Interior. Referred to the Committee on Government Operations.

By Mr. THURMOND:

S. 1775. A bill for the relief of Samia Lotfy Azer. Referred to the Committee on the Judiciary.

By Mr. HUGH SCOTT:

S. 1776. A bill to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. RANDOLPH (for himself, Mr. JACKSON, and Mr. MAGNUSON):

S. 1777. A bill to require that new and, to the extent practicable, existing electric powerplant boilers and major industrial boilers which utilize fossil fuels be capable of utilizing coal as their primary energy fuel in conformity with applicable environmental requirements, and for other purposes. Referred by unanimous consent, jointly to the Committee on Interior and Insular Affairs and the Committee on Public Works.

By Mr. THURMOND:

S. 1778. A bill to impose a 1-year moratorium on the admission of aliens to the United States for permanent residence under the Immigration and Nationality Act. Referred to the Committee on the Judiciary.

S. 1779. A bill to reduce by 20 percent the number of aliens who may lawfully enter the United States for permanent residence under the provisions of the Immigration and Nationality Act. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 1780. A bill to continue the special supplemental food program for women, infants, and children through September 30, 1975. Referred to the Committee on Agriculture and Forestry.

By Mr. CHILES (for himself and Mr. STONE):

S. 1781. A bill to amend title XVIII of the Social Security Act so as to enable certain aliens to obtain coverage under the supplemental medical insurance program established by part B of such title. Referred to the Committee on Finance.

By Mr. BROCK:

S. 1782. A bill to make unlawful the transportation, sale, or receipt of counterfeit recordings. Referred to the Committee on the Judiciary.

S. 1783. A bill to amend title XVIII of the Social Security Act to provide for comprehensive and quality health care for persons with communicative disorders under the health insurance program (medicare) including preventive, diagnostic, treatment and rehabilitative functions. Referred to the Committee on Finance.

S. 1784. A bill to amend title XVIII of the Social Security Act to provide for coverage of comprehensive hearing health care services, including provision for hearing amplification devices financed in part by the Federal Government. Referred to the Committee on Finance.

By Mr. MOSS:

S. 1785. A bill for the relief of Edna Pearl Klekas. Referred to the Committee on the Judiciary.

By Mr. BEALL:

S. 1786. A bill for the relief of Kam Lin Cheung. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON:

S. 1787. A bill for the relief of Maria Lisa R. Manalo and Rogena R. Manalo. Referred to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 1788. A bill to facilitate the sale of U.S. agricultural commodities to be stored in the United States not subject to export control and restricted from resale into the U.S. markets. Referred to the Committee on Agriculture and Forestry.

By Mr. CRANSTON (for himself, Mr. MONDALE, Mr. WILLIAMS, Mr. RANDOLPH, Mr. TUNNEY, Mr. GOLDWATER, and Mr. PERCY):

S. 1789. A bill to amend the Domestic Volunteer Service Act of 1973 and the Peace Corps Act to provide for an increase in the VISTA volunteer stipend and Peace Corps volunteer readjustment allowance, respectively. Referred, by unanimous consent, to the Committee on Labor and Public Welfare and the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FONG:

S. 1773. A bill to amend section 104 (g) of title 23, United States Code, relating to the transfer of funds from the rail-crossing program to other uses. Referred to the Committee on Public Works.

Mr. FONG. Mr. President, today I am introducing a bill to amend the Highway Safety Act of 1973, title II of Public Law 93–87, to remedy an inadvertent injustice to the State of Hawaii in the original legislation passed by the Congress.

To accomplish this, my bill amends section 104 of title 23, United States Code, to provide a more equitable formula than is presently authorized for transferring funds from the rail-highway crossings program to other title II safety programs.

Mr. President, the need for this legislation was brought to my attention by Gov. George R. Ariyoshi of Hawaii. The Governor pointed out that the sum of $774,335 was apportioned to Hawaii for a 3-year period, fiscal years 1974, 1975, and 1976, to fund projects authorized by section 203(d), the rail-highway crossings program, of the Highway Safety Act of 1973. Unfortunately, Hawaii is not eligible to expend any of the funds under this program because it does not have any operating railroads with grade crossings intersecting the Federal-aid highway system. Hawaii is, in fact, the only State in the Union without railroad transportation service.

Since section 104(g) of the act permits only 30 percent of the funds apportioned for the rail-highway crossings program to be transferred to other title II safety programs, Hawaii, under present law, is compelled to relinquish $542,035 out of the $774,335 apportioned to the State for this program.

The absence of rail-highway crossings in Hawaii does not lessen our highway safety problem. On the contrary, since we do not have any railroad system, we are proportionately more dependent on our highway system for the movement of people and goods than are other States. Therefore, we are faced with more highway safety problems in areas other than rail-highway crossings.

In view of Hawaii's unique situation, I believe it is justifiable to amend the Highway Safety Act to permit the transfer of up to 100 percent of the rail-highway crossings program funds to other title II safety programs, such as bridge reconstruction and replacement, correction of high-hazard locations, and elimination of roadside obstacles.

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

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

S. 1773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 104(g) of title 23, United States Code, is amended by striking out the word "Not" at the beginning of such section and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, not".

(b) Section 104(g) of such title is further amended by adding at the end thereof a new paragraph as follows:

"(2) All or any portion of the amount apportioned in any fiscal year to any State in accordance with section 203(d) of the Highway Safety Act of 1973 may be transferred as provided in paragraph (1) of this subsection if such State has no rail-highway crossings on its Federal-aid system.".

By Mr. PERCY:

S. 1774. A bill to reorganize the executive branch of the Government by abolishing the Federal Metal and Nonmetallic Mine Safety Board of Review and transferring the functions and powers of such Board to the Secretary of the Interior. Referred to the Committee on Government Operations.

Mr. PERCY. Mr. President, on page 887 of the "Appendix to the Budget for Fiscal Year 1976" there is a request "for necessary expenses of the Federal Metal and Nonmetallic Mine Safety Board of Review—$60,000." I believe that this budget request is unjustified and that the Review Board is unnecessary. I am therefore submitting a bill today that will abolish this Review Board and transfer its functions and powers to the Secretary of the Interior.

This Board was created in 1966, pursuant to Public Law 89–577. Its purpose was to provide an administrative hearing for appeals from noncoal mine operators ordered by the Mining Enforcement and Safety Administration to close their mines for safety reasons. An additional process of appeal exists with the Office of Hearings and Appeals in the Department of the Interior. The only real difference between the two appeals procedures is that the law specifically provides for court review only upon an appeal to the Review Board. Basically, however, the two processes needlessly overlap.

A look at the record of the Federal Metal and Nonmetallic Mine Safety Board of Review will show that it has never heard a single appeal of a mine closure. Its five members, two of whom are representatives of organized mine labor, two of the mining industry, and one of academia, convene once each year in conjunction with a professional society meeting for mining engineers. With no business to conduct, there has yet to be a purpose for a meeting of the Board.

I find it curious that, since 1972, of 3,392 mine closures ordered, only one has ever been appealed, and that particular case was appealed to the Secretary of the Interior and not to the Review Board. Perhaps the absence of appeals is an indication that the procedure for issuing orders for mine closures is too lax. I do not know. The health and safety of mine workers is a serious matter, and I think the Congress ought to look further into this question. I have therefore asked the Comptroller General to take a look at the mine closure appeals process.

In any case, I believe that the review afforded by the Interior Department's Office of Hearings and Appeals should be adequate, provided that we allow the findings of that office to be subject to court review. The bill that I introduce today will simply abolish the Federal Metal and Nonmetallic Mine Safety Board of Review and transfer its functions to the Secretary of the Interior. If the Congress passes this bill, $60,000 of Federal funds will be saved.

Mr. President, I ask unanimous consent that an article from the Washington Star-News of May 15, 1975, entitled "Bureaucrat Concedes That He's Superfluous," be printed in the RECORD.

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

BUREAUCRAT CONCEDES THAT HE'S SUPERFLUOUS

Jubal Hale admits he's a bureaucrat with little to do. So he spends his working hours reading and listening to Beethoven records at his office.

Hale says it's not that he doesn't try to earn his $19,693-a-year salary as executive secretary of the Federal Metal and Non-Metallic Safety Board of Review. It's just that the board has never had anything to review in its four years, Hale said in an interview.

"We have been expecting to be abolished for over two years," Hale said. "Bills have been introduced in Congress to abolish us, But nothing happened."

And nothing is what occupies most of his days on the job, once the routine paperwork of maintaining the office is taken care of, Hale concedes.

Apparently, neither Congress nor the Ford administration has taken the hint. In fact, the administration is asking for $60,000 in annual upkeep for the office in the President's budget for fiscal year 1976.

Hale was contacted after Rep. Ken Hechler, D-W. Va., charged in a House Appropriations subcommittee meeting yesterday that the board was "a totally useless, toothless and do-less government agency which has never earned its pay."

Hechler called for the board to be abolished. And Hale said that he doubted any objections would come from his office if Congress did just that.

"We have been extremely candid with Congress," Hale said. "Our annual reports are clear and concise. We have had no cases.

The five-member board was set up to hear appeals from non-coal mine operators ordered to shut down by the Mining Enforcement and Safety Administration as unsafe. A MESA spokesman expressed surprise that the board was still in operation. "I thought it had been abolished some time ago," he said.

There were 1,998 closure orders last year but not one was appealed to Hale's board. Hechler said that mine operators have another avenue of appeal through the Interior Department.

He described a trip to the board's offices last week.

"The door was open, the telephone was off the hook, and nobody was around," said the congressman. "The coffee-making equipment was elaborate. A large stereo set was in the office of the executive secretary with Beethoven records stacked high."

By Mr. HUGH SCOTT:

S. 1776. A bill to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HUGH SCOTT. Mr. President, I am pleased to introduce in this Bicentennial Congress a bill which would designate Valley Forge State Park as a national historical park. It makes historic sense to make Valley Forge a national shrine—it is a national symbol.

Valley Forge marks the winter encampment of Washington's Continental Army from December 19, 1777 to June 19, 1778, and is known as the turning point of the American Revolution. Congressman SCHULZE is the prime sponsor of an identical bill in the House of Representatives. This measure has the support of the entire Pennsylvania delegation.

There are advantages to be realized in a change from State control. Most significant, with the Bicentennial just months away, is that the park would have access to the expertise of numerous Federal historic agencies, and would be eligible for Federal support and financing for restoration, historic programs and promotion. Thousands, perhaps millions, of visitors are expected at this historic area during the Bicentennial. The Federal Government is more capable of handling the necessary services, facilities and planning for an event of such magnitude.

No spot on earth is so sacred . . . in the history of the struggle for human liberty as Valley Forge.—CYRUS TOWNSEND BRADY.

Mr. President, I hope that my colleagues share my reverent appreciation for what men endured at Valley Forge in that winter of 1777–78 to struggle for the liberty and independence we declared in 1776. I urge all my colleagues to support this legislation.

I ask unanimous consent that the text of my bill (S. 1776) be printed in the RECORD.

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

S. 1776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and commemorate for the people of the United States the area associated with the heroic suffering, hardship, and determination and resolve of General George Washington's Continental Army during the winter of 1777–1778 at Valley Forge, the Secretary of the Interior (hereinafter referred to as the "Secretary"), is authorized to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania.

SEC. 2. For the purposes of this Act the Secretary may designate not to exceed three thousand five hundred acres consisting of the existing Valley Forge State Park together with such additional lands and interests therein as he deems necessary for proper interpretation, protection, and administration of the area referred to in the first section of this Act. A map or other boundary description of the area so designated shall be published in the Federal Register. Within the area so designated the Secretary may acquire lands and interests therein by donation, purchase, or exchange, except that any property owned by the Commonwealth of Pennsylvania or any political subdivision thereof may be acquired only by donation.

SEC. 3. When the Secretary determines that lands and interests therein have been acquired in an amount sufficient to constitute an administerable unit, he shall establish the Valley Forge National Historical Park by publication of a notice to that effect in the Federal Register. Pending such establishment and thereafter, the Secretary shall administer the property acquired for such park in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. RANDOLPH (for himself, Mr. JACKSON, and Mr. MAGNUSON):

S. 1777. A bill to require that new and, to the extent practicable, existing electric powerplant boilers and major industrial boilers which utilize fossil fuels be capable of utilizing coal as their primary energy fuel in conformity with applicable environmental requirements, and for other purposes. Referred, by unanimous consent, jointly to the Committee on Interior and Insular Affairs and the Committee on Public Works.

GREATER COAL UTILIZATION WILL ACHIEVE ENERGY INDEPENDENCE

Mr. RANDOLPH. Mr. President, our country's indigenous coal resources offer the principal base for freedom. Freedom to exercise our rights of individual choice as American citizens. Freedom from the vagaries of foreign energy producers. Freedom from the economic burden of major balance-of-payments deficits.

At stake is the capability of the United States to determine its own future. At issue is the adequacy of the commitment by Government, by industry, and by us as American citizens toward the promotion of energy self-sufficiency in a manner consistent with national environmental requirements.

In the difficult years ahead, the Congress, and the American people will be extensively involved in evaluating this national quest. Secure and sufficient domestic energy supplies are requisite to assuring our country's economic future.

Recent energy shortages raise serious questions regarding our country's capability to maintain adequate energy supplies to meet even minimum growth projections.

Present energy problems will persist. Our Nation's domestic oil and natural gas supplies can be characterized as one huge deficit. We are now facing full societal consequences of our country's enormous appetite for energy.

In 1960, each American consumed the equivalent of 44 barrels of oil; by 1970 the figure was 60 barrels, and by 1980 the consumers' appetite is expected to increase to 77 barrels of oil each year.

Energy self-sufficiency cannot automatically materialize under such circumstances. A long-term national energy policy is required.

The challenge is there—the question is one of acceptance and a solid commitment to meeting our country's energy needs consistent with our national environmental policies.

COAL'S REFORMATION

Energy self-sufficiency will require unprecedented growth from our Nation's coal industry.

The comprehensive congressional program on the economy and energy recommended a twofold increase in coal production within 10 years from an estimated 695 million tons in 1975 up to 1.4 billion tons by 1985. Similarly the President's 1975 state of the Union message anticipates a coal production level of 1.1 billion tons by 1985.

Should imported supplies of oil and natural gas fall short of projections, this task for coal would be made even more difficult. Coal utilization by 1985 might well have to reach 1.8 to 2.0 billion tons annually, compared to about 700 million tons this year. This represents a two and one-half to threefold increase in production in 12 years. This also means that by the year 2000, coal production, transportation, and utilization might have to approach 4 billion tons.

President Ford in his state of the Union message envisions expanding America's energy capabilities over the next 10 years to support 1.1 billion tons of coal production and utilization. Among other proposals the administration's program calls for—250 major new coal mines; 150 major coal-fired powerplants; and 20 major new synthetic fuel plants.

On the other hand, the congressional energy and economic energy program envisions at a minimum a doubling in coal utilization by 1985. At the same time it calls for a commercial demonstration of new synthetic fuels from coal with an ultimate production goal by 1985 equivalent to 500,000 barrels of oil per day.

The magnitude of these goals is staggering. For example, for every 100 million tons of annual coal production from underground mines in the East, some 50 new mines will be required. Moreover, every 100 million tons of underground production will require 30,000 to 40,000 new employees. Their investment cost will be an estimated $20 to $50 per annual ton.

For every 100 million tons of increased coal production in the West some 20 new mines will be required, calling for some 3,000 to 5,000 new employees. The investment cost for these western mines will be an estimated $5 to $15 annual tons of production.

The overall cost of doubling coal production between 1975 and 1985 could well approach $25 billion in today's dollars.

This difficult challenge will test the capabilities of both government and industry. Should our country's energy demands not be satisfied our economy could be adversely affected or possibly even shut down. The solution is greater coal utilization.

THE NEED FOR A NATIONAL COAL POLICY

In order to achieve even the congressional coal production goals, the Federal Government must adopt a national posture predicated on implementation of a definitive national coal policy from the mine-face to the ultimate energy user. This policy must assure compliance with national policies on coal mine health and safety, on surface mine reclamation, and on environmental quality. This policy must include a national program to greatly improve our coun-

try's transportation capability to deliver coal in the required quantities. Equally important, this national policy to promote greater coal utilization must consider consumer costs.

Success in this endeavor will require national acceptance, and solid commitment by all American citizens to meeting our country's future energy needs from domestic sources.

COAL SUBSTITUTION

The first step is coal substitution for oil and natural gas as our Nation's principal boiler fuel in electric utility and industrial applications presents a major potential for the achievement of energy self-sufficiency. Such a national program was endorsed by the President in his 1975 state of the Union message as well as the Congressional Program of Economic Recovery and Energy Sufficiency which advocated:

A national policy requiring new base-load fossil fuel fired electric power plants and heavy industrial boilers to burn coal rather than oil or natural gas, and the conversion of existing plants over the next ten years where feasible.

Last June, 11 months ago, the Congress passed and the President approved the Energy Supply and Environmental Coordination Act of 1974. Among its provisions was authority to require electric powerplants and major industrial facilities with the capability to utilize coal to convert from oil and natural gas to our Nation's most abundant fossil fuel.

The statute was an emergency measure intended to ease the problems faced by powerplants which were required to convert, or voluntarily converted, from oil to coal. However, despite a concerted effort since last fall by the Federal Energy Administration to implement this statute, as reported by the Washington Post on April 5, 1975, some electric powerplants on the east coast are switching back to more costlier oil. This is adding some $150 million to consumer electric bills in their service areas. Together these conversions will increase our oil imports by almost 100,000 barrels each day.

There now remains the need to address the issues surrounding the long-term utilization of coal as a substitute for imported oil and natural gas.

Using present coal conversion authority the Federal Energy Administration estimates that the practical oil savings from this program by 1980 are in excess of 850,000 barrels of oil per day. Although some of these savings will be realized in 1975 and 1976, the majority of the benefits from reduced oil consumption will not materialize until after 1977. This is due to the time required to upgrade air-pollution-control equipment and to develop additional coal supplies.

According to FEA Administrator Zarb, as I discussed in my May 5, 1975, Senate remarks, by far the greatest savings in oil consumption are possible by requiring new electric powerplants and major industrial facilities to possess the capability to utilize coal. For example, the Federal Energy Administration has reviewed new electric powerplants scheduled for completion between 1980 and 1985. Were these facilities required to utilize coal the resultant oil savings would be between 1 and 3 million barrels of oil per day. While the resultant savings dwarf the other potential savings from the present coal conversion program, the Federal Energy Administration does not have authority to insure that these savings are realized.

NATIONAL PETROLEUM AND NATURAL GAS CONVERSION AND COAL SUBSTITUTION ACT OF 1975

Mr. President, today I am joined by Senators HENRY M. JACKSON and WARREN G. MAGNUSON as we introduce the National Petroleum and Natural Gas Conservation and Coal Substitution Act of 1975. The objectives of this legislation are:

To require that after January 1, 1979, new electric powerplants and major industrial installations which utilize fossil energy resources as boiler fuel must be capable of utilizing coal as their primary energy source, in a manner consistent with applicable environmental requirements.

To require that as promptly as possible, but in no event later than January 1, 1980, existing fossil-fuel electric powerplants and major industrial installations which utilize fossil energy resources as boiler fuel, and not scheduled for retirement prior to January 1, 1985, must acquire the capability to utilize coal as their primary energy source in a manner consistent with environmental requirements.

To require that by January 1, 1985, to the maximum extent practicable, fossil-fuel electric powerplants and major industrial installations must utilize coal as their primary energy source in a manner consistent with applicable environmental requirements.

Mr. President, as the chairmen of the three Senate committees with principal responsibilities in this area, we are determined to implement a national coal policy formulated to promote greater coal utilization to fill the gap between domestic energy supplies and consumption which is now satisfied by imported oil. We are launching this investigation to examine national policies affecting coal production, distribution, and end use. An examination will be undertaken of necessary Federal policies to assure not only adequate coal supplies but the infrastructure to support coal substitution as a national policy consistent with other national policies on coal mine health and safety, on surface mine reclamation, and on environmental quality.

We also will review the potential availability of capital, manpower, and equipment to support a twofold increase in coal utilization by 1985.

Initial hearings on greater coal utilization will convene on June 5, 1975.

Mr. President, I ask unanimous consent that background material on these hearings, including general questions and policy issues affecting greater coal utilization, and the bill be printed in the RECORD.

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

QUESTIONS AND POLICY ISSUES—HEARINGS ON GREATER COAL UTILIZATION

(By the Committee on Public Works in Conjunction With the National Fuels and Energy Policy Study, U.S. Senate)

INTRODUCTION AND OBJECTIVE

Domestic coal resources offer one of the principal means to achieve a desirable level of energy self-sufficiency for the United States. Success in this endeavor will require increases in coal production beyond those currently projected or previously considered feasible.

The comprehensive Congressional program on the economy and energy recommended a series of actions which, when implemented, would produce both national energy self-sufficiency and a substantial reduction in dependence on foreign energy sources. The program envisions a two-fold increase in coal production within ten years from an estimated 695 millions tons in 1975 up to 1.4 billion tons by 1985. Similarly the President's 1975 State of the Union Message (including energy and the economy) anticipates a coal production level of 1.1 billion tons by 1985.

In order to achieve either of these coal production goals—but particularly the Congressional objective—the Federal government must adopt a national posture predicated on implementation of a definitive National Energy Policy. Within this context there is a requirement for a comprehensive National Coal Policy from the mine-face to the ultimate energy user. In addition, this policy must assure compliance with national policies on coal mine health and safety, on surface mine reclamation, and on environmental quality, including air and water pollution control, and this policy must also include a national program to greatly improve our country's transportation capability to deliver coal in the required quantities. Equally important a national policy to promote greater coal utilization must consider its impact on consumer costs.

Success in responding to this challenge will require a national acceptance and a solid commitment by all American citizens to meeting our country's future energy needs from domestic sources consistent with applicable national societal policies concerned for the protection of public health and welfare.

Coal substitution for oil and natural gas as our nation's principal boiler fuel in electric utility and industrial applications presents a major potential for the achievement of energy self-sufficiency. Such a national program was endorsed by the President in his 1975 State of the Union Message as well as the Congressional Program of Economic Recovery and Energy Sufficiency which advocated:

"A national policy requiring new base-load fossil fuel fired electric power plants and heavy industrial boilers to burn coal rather than oil or natural gas, and the conversion of existing plants over the next ten years where feasible. In this regard, the Congress supports expeditious implementation of the Energy Supply and Environmental Coordination Act of 1974 (referred to as the Coal Conversion Act)."

Achievement of this objective will require implementation of a natural coal program which is structured to utilize coal to close the energy supply-demand gap resulting from inadequate domestic production of natural gas and oil.

The basic goals of a National Coal Policy predicated on coal substitution are set forth in the National Petroleum and Natural Gas Conservation and Coal Substitution Act of 1975, which is jointly sponsored by the Chairman of the three Senate Committees with

principal responsibilities in this area. The national objectives set forth in the legislation are:

To require that after January 1, 1979, new electric power plants and major industrial installations which utilize fossil energy resources as boiler fuel must be capable of utilizing coal as their primary energy source, in a manner consistent with applicable environmental requirements;

To require that as promptly as possible, but in no event later than January 1, 1980, existing fossil-fuel electric power plants and major industrial installations which utilize fossil energy resources as boiler fuel (and not scheduled for retirement prior to January 1, 1985) must acquire the capability to utilize coal as their primary energy source in a manner consistent with environmental requirements; and

To require that by January 1, 1985, to the maximum extent practicable, fossil-fuel electric power plants and major industrial installations must utilize coal as their primary energy source in a manner consistent with applicable environmental requirements.

This investigation by the affected Senate Committees and the announced hearings will examine national policies affecting coal production, distribution, and end-use. An examination will be undertaken of necessary Federal policies to assure not only adequate coal supplies but the infrastructure to support coal substitution as a national policy consistent with other national policies on coal mine health and safety, on surface mine reclamation, and on environmental quality.

The hearings also will examine the coal supply system and end-use sectors to determine potential and actual constraints, such as capital, manpower, and equipment availability as they affect achievement by 1985 of a two-fold increase in coal production.

As background for this investigation, the Congressional Research Service has prepared a Committee Print entitled, "Factors Affecting Coal Substitution for Other Fossil Fuels in Electric Power Production and Industrial Uses." Single copies may be obtained by writing the National Fuels and Energy Policy Study, Committee on Interior and Insular Affairs, United States Senate, 3106 Dirksen Senate Office Building, Washington, D.C. 20510.

The hearings will convene on June 5, 1975. Invited witnesses and other affected parties submitting statements for the record are requested to address the following general questions and, to the extent appropriate, those detailed questions within their areas of expertise. In the initial hearings on greater coal utilization the following areas will be emphasized:

June 5—Administration witnesses;
June 10—Coal Supplies;
June 11—Labor and Transportation;
June 12—Coal Users.

Submission for the record should be transmitted in ten copies by July 1, 1975, to Senator Jennings Randolph, Chairman, Committee on Public Works, United States Senate, Room 4204 Dirksen Senate Office Building, Washington, D.C. 20510.

In addition, copies of submissions should be sent to Senator Henry M. Jackson, Chairman, Committee on Interior and Insular Affairs, Room 3106 Dirksen Senate Office Building, Washington, D.C. 20510 and to Senator Warren G. Magnuson, Chairman, Committee on Commerce, Room 5202 Dirksen Senate Office Building, Washington, D.C. 20510.

QUESTIONS AND POLICY ISSUES

Responses to the following questions wherever practicable should be supported with appropriate references to historical and current information and data as well as quantitative estimates or projections. In addition, responses, where appropriate, should be provided on the basis of individual facilities.

1. What are the present situation and future outlook (through 1985 and beyond) with respect to the United States' capability to support a doubling in coal production and use by 1985 with respect to the adequacy of—

a. coal reserves?
b. coal mining capacity?
c. coal transportation capacity (by railroad, waterways, or pipelines)?
d. the end-use capabilities?
e. manpower for coal mining and conversion of end-use facilities?
f. available capital funds?

If, in your judgment, this objective will not be achieved by 1985, what would be a reasonable time-schedule?

2. On a national as well as regional basis what are the social, economic, and environmental implications associated with adoption of a national energy policy which fosters the substitution of coal for natural gas and petroleum products as the primary boiler fuel utilized by electric power plants and major industrial installations? What are the implications for energy self-sufficiency, for national security, for balance of payments, for environmental quality, and for consumer prices?

3. What lead-times are typically required for the construction of the necessary facilities to support a national policy of greater coal utilization from the standpoint of—

a. production;
b. transportation;
c. conversion of existing electric power plants and the construction of new facilities; and
d. conversion of existing industrial users and the construction of new facilities.

4. What Federal policies would provide optimum balance of incentives for expansion of the United States' capacity for coal production, transportation, and use consistent with applicable environmental policies and with the preservation of national security, the preservation of competition, the assurance of a reasonable rate of return on investments, the maintenance of full employment, the control of inflation, and reasonable consumer prices?

5. On the basis of experience from implementation of the Energy Supply and Environmental Coordination Act of 1974, what, in your judgment, are the principal constraints on implementation of the National Petroleum and Natural Gas Conservation and Coal Substitution Act of 1975? What legislation do you believe would be needed to remove these constraints?

COAL SUBSTITUTION

6. What are the principal factors affecting the interchangeability of coal for oil and natural gas for boiler fuel purposes?

7. For the periods from the present to 1980, from 1980 to 1985, and beyond 1985, what is the potential for coal substitution for—

a. new electric power plants?
b. existing electric power plants?
c. new major industrial boiler installations?
d. existing major industrial boiler installations?

Where feasible indicate the number of conversions that might be possible, the rate at which such conversions could be undertaken, the costs (both capital, operation, and maintenance costs) of conversion, the ability of the industries affected to finance the conversions, the resultant increases or decreases in consumer costs, and the environmental consequences of substitution as well as any special regional concerns?

8. Within the time periods from the present to 1980, from 1980 to 1985, and beyond 1985, what are the anticipated constraints on coal substitution with respect to individual facilities?

9. What are the factors that, in your judgement, would justify exemption of a major steam boiler from the requirement to convert to coal as its primary energy source where such facility now utilizes—

a. natural gas?
b. oil?

10. To what extent are natural gas and oil used, or required, by predominantly coal using facilities as—

a. a start-up fuel?
b. a supplementary or "topping" fuel to increase output during peak-load periods?

11. What are the circumstances that, in your judgment, would justify the construction of new steam boilers to utilize either oil or natural gas as their principal energy source? For example, what sizes of types of new facilities (i.e., baseload, cyclical, or peakload electric power units) should be permitted to use either oil or natural gas?

COAL SUPPLIES

12. What are the present and anticipated incentives and disincentives affecting achievement of a doubling of coal production and usage by 1985 consistent with national environmental policies? What are your specific recommendations of optimizing the possibility for achievement of this objective?

a. If these incentives are adequate, are they excessive?
b. If these incentives are inadequate, what changes would be required in order to close projected gap between supply and demand?
c. If these incentives are inadequate, is Federal intervention necessary?

13. What will be the anticipated social, economic, and environmental implications for—

a. The various coal producing regions?
b. The various coal consuming regions?

14. What new surface and underground coal production capacity in the United States will be required to achieve the purposes of the legislation? (Include a discussion of the locations and quality of the required coal supplies.) What are the principal constraints?

15. What incentives or legislation, if any, would aid in assuring the required coal production capacity and quality of coal is available to support coal substitution as a national policy?

16. Assuming coal prices which reflect production costs and reasonable rates of return on investment capital—

a. What are the anticipated prices for coal produced in compliance with national policies governing coal mine health and safety, surface mine reclamation, and other environmental requirements?
b. What are the potential factors that could increase coal prices above these levels?
c. What will be the anticipated effect of these prices on electric rates or on consumer costs?

17. To what extent should public disclosure be required as to the existence, extent, beneficial or actual ownership, or control of coal reserves, coal production facilities, and coal research and development efforts?

18. If available coal supplies are inadequate to meet the nationwide coal demand created from a national policy of coal substitution, such as that set forth in the National Petroleum and Natural Gas Conservation and Coal Substitution Act of 1975, what governmental means could or should be utilized to deal with the problem? Should any of the following standby Federal powers be provided to the Federal Energy Administration, or some

other Federal agency, to cope with such shortages. For example, authority to—

a. direct coal from export to domestic use?

b. allocate coal among end-users within the United States?

c. control coal prices?

d. order the lease, sale, or development of Federal or private coal reserves?

e. order operation of existing coal production or transportation facilities?

f. order construction of such facilities as necessary to provide the necessary coal supplies?

g. order divestiture of foreign ownership or control of coal reserves or production facilities?

h. curtail or prohibit certain end-uses of available energy supplies?

i. authorize the reconversion or conversion of coal burning facilities to oil or natural gas?

j. request the Environmental Protection Agency or the states to review, or modify, environmental requirements applicable to coal production, processing, transportation, or utilization because of overriding national interest?

TRANSPORTATION

19. What are the necessary transportation requirements, including electric transmission facilities, to support a national coal substitution policy and how do they compare to currently projected capabilities?

20. What incentives, if any, would be needed to foster expansion of the United States' coal transportation, including electric transmission facilities, to support a doubling by 1985 in coal usage?

21. What are the specific problems that face expansion and operation of the railroads to accommodate a national policy to foster coal substitution? What are the costs? What are the available financial resources?

22. What are the specific problems that face expansion and operation of coal slurry pipelines to support a national policy to foster coal substitution? What are the costs? What are the available financial resources?

23. What are the specific problems that face expansion and operation of coal barge capacity to support a national policy to foster coal substitution? What are the costs? What are the available financial resources?

24. What are the specific problems that face expansion and operation of electric power transmission systems to support a national policy to foster coal substitution? What are the costs? What are the available financial resources?

MANPOWER

25. What is the availability of manpower i.e., engineers, scientists, technical, and supportive personnel) to support a national policy to foster greater coal utilization and a doubling by 1985 in coal production?

26. What are the necessary education and training requirements?

27. What are the available Federal programs?

CAPITAL AND FINANCIAL RESOURCES

28. For new installations, what are the capital, operating, fuel and total unit costs associated with coal usage compared to natural gas and oil (both domestic and imported)?

29. For existing facilities, what are the capital, operating, fuel and total unit costs associated with coal usage compared to natural gas and oil (both domestic and imported)?

30. What other economic factors could hinder implementation of either greater coal utilization or coal conversion as proposed in the National Petroleum and Natural Gas Conservation and Coal Substitution Act of 1975?

ENVIRONMENTAL ISSUES

31. What potential additional environmental impacts, if any, would result from the promotion of greater coal utilization?

32. What additional environmental requirements would be imposed on site selection as a result of coal conversion or substitution?

33. What are the air pollution control techniques and methods, or combinations of techniques and methods, potentially available for compliance with air pollution control requirements and how do they differ for the periods—

a. from now to 1980?

b. from 1980 to 1985?

c. beyond 1985?

Include a discussion of the continuous emission techniques and methods (including coal preparation, low-sulfur coal, and fluegas treatment), their comparative costs to the facility and to the consumer, and how these techniques and methods relate to applicable environmental requirements of law.

34. What presently specified or potential continuous emission control techniques or methods are available (and on what time schedules) to achieve compliance with applicable air pollution control requirements? Provide an indication of the degree to which equipment availability, installation lead-times, and costs, are a constraint to timely and environmentally acceptable coal conversion with respect to—

a. particulates?

b. sulfur oxides?

c. nitrogen oxides?

d. other pollutants?

35. What are the potential environmental impacts from waste heat discharges that could result from a national policy to promote greater coal utilization?

36. What are the potential environmental impacts from solid waste disposal that could result from a national policy to promote greater coal utilization?

37. To what extent are the principles and procedural requirements of the National Environmental Policy Act applicable to a national policy to promote greater coal utilization or to any of the individual aforementioned matters?

RESEARCH AND DEVELOPMENT PROGRAMS AND PRIORITIES

38. In your judgement, what research and development programs would expedite attainment of the objectives of a national policy to promote a national policy to promote greater coal utilization and the National Petroleum and Natural Gas Conservation and Coal Substitution Act of 1975? What should be the relative priorities among these programs?

39. What is the potential cost of and anticipated time schedule for the various synthetic hydrocarbon liquid and gaseous substitutes for natural gas and oil from coal which could serve to foster a national policy to promote greater coal utilization?

CONSUMER COSTS

40. What are the anticipated efforts of a national policy to foster greater coal utilization on consumer costs for electricity as well as other goods and services?

S. 1777

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 "National Petroleum and Natural Gas Conservation and Coal Substitution Act of 1975."

FINDINGS AND PURPOSES

SEC. 101. (a) FINDINGS.—The Congress finds that the protection of public welfare and the preservation of national security require—

(1) the furtherance of national energy self-sufficiency consistent with applicable environmental goals and requirements; and

(2) the utilization of the indigenous energy resources of the United States in lieu of imported energy supplies can be facilitated by the substitution of coal for natural gas and petroleum products where these fuels would otherwise be used by electric power plants and major industrial installations as their primary boiler fuel.

(b) PURPOSES.—The purposes of this Act are to require that—

(1) new electric power plants and major industrial installations which become operational after January 1, 1979, and which utilize fossil energy resources as boiler fuel must be capable of utilizing coal as their primary energy source, in conformance with applicable environmental requirements;

(2) as promptly as possible, but in no event later than January 1, 1980, existing electric power plants and major industrial installations which utilize fossil energy resources as boiler fuel (and not scheduled for retirement prior to January 1, 1985) must, to the maximum extent practicable, acquire the capability to utilize coal as their primary energy source in conformance with applicable environmental requirements; and

(3) by January 1, 1985, to the maximum extent practicable, electric power plants and major industrial installations which utilize fossil energy resources as boiler fuel utilize coal as their primary energy source in conformance with applicable environmental requirements.

COAL SUBSTITUTION

SEC. 102. (a) NEW FACILITIES.—(1) After January 1, 1979, the operation of any new electric power plant or new major industrial installation utilizing natural gas or petroleum products as its primary boiler fuel is prohibited unless such facility is equipped with the capability (including the necessary auxiliary equipment and facilities) to use coal as its primary source of boiler fuel in conformance with applicable environmental requirements, including any standard or limitation respecting emissions of air pollutants or any requirement respecting control or abatement of air pollution.

(2) The operation after January 1, 1985, of any new electric powerplant or new major industrial installation utilizing fossil energy resources as a boiler fuel is prohibited unless such facility utilizes coal as its primary source of boiler fuel in conformance with applicable environmental requirements, including any standard or limitation respecting emissions of air pollutants or any requirement respecting control or abatement of air pollution. *Provided, however,* That the Administrator may exempt from the requirements of this paragraph for the period required to achieve compliance with this paragraph any major industrial installation or electric powerplant which submits to him clear evidence that, despite good faith efforts, coal or coal transportation facilities will not be available in sufficient time to achieve compliance at an earlier date.

(3) For the purposes of this subsection a new electric powerplant or new major industrial installation is a facility which as of June 22, 1974, was in the early planning process as that term is used in the Energy Supply and Environmental Coordination Act of 1974 (P.L. 93-319).

(b) EXISTING FACILITIES.—(1) After January 1, 1980, the operation of any electric powerplant or major industrial installation whose construction is completed prior to January 1, 1979, utilizing natural gas or petroleum products as its primary boiler fuel, is prohibited unless such facility is equipped with the capability (including the necessary auxiliary equipment and facilities) to use coal as its primary source of boiler fuel in conformance with applicable environmental requirements, including any standard or limitation respecting emissions of air pollutants or any requirement respecting control or abatement or air pollution.

(2) The Administrator may issue a compliance date extension not to exceed two years to any electric powerplant or major industrial installation only if such facility began conversion prior to January 1, 1978,

and (A) the facility prior to July 1, 1977, has submitted a plan containing a compliance schedule to the Administrator which the Administrator has approved pursuant to this paragraph, and (B) there is clear evidence that, despite good faith efforts, the equipment, including adequate coal storage areas, coal handling and firing equipment, pollution abatement devices and techniques, and ash handling and disposal areas, necessary to achieve compliance with the purposes of this Act will not be available in sufficient time to achieve compliance at an earlier date. *Provided, however,* That the Administrator may exempt from the requirements of this subsection any electric powerplant or major industrial installation which as of the date of enactment of this Act was scheduled for retirement or the owner can otherwise demonstrate will be retired prior to January 1, 1976, in a retirement plan for the facility as submitted to the Administrator and approved by him pursuant to this paragraph.

(3) For the purposes of this subsection an industrial installation or electric powerplant shall be considered to have begun conversion when it has entered into contracts (or other obligations) which the Administrator has approved as being adequate to provide for obtaining a long-term coal supply and appropriate environmental control systems necessary to assure compliance by such facility with applicable environmental requirements, including any standard or limitation respecting emissions of air pollutants or any requirement respecting control or abatement of air pollution.

(4) The operation after January 1, 1985, of any electric power plant or major industrial installation subject to the requirements of this subsection is prohibited unless such facility utilizes coal as its primary source of boiler fuel in conformance with applicable environmental requirements, including any standard or limitation respecting emissions of air pollutants or any requirement respecting control or abatement or air pollution.

Provided, however, That the Administrator may exempt from the requirements of this paragraph for the period required to achieve compliance with this paragraph any electric power plant or major industrial installation which submits to him clear evidence that, despite good faith efforts, coal or coal transportation facilities will not be available in sufficient time to achieve compliance at an earlier date.

(c) For the purposes of this section the Administrator—

(1) Shall consult with the Administrator of the Environmental Protection Agency on matters pertaining to conformance with applicable environmental requirements; and

(2) Shall obtain a certification of conformance with applicable environmental requirements from the Administrator of the Environmental Protection Agency for each electric power plant or major industrial installation subject to the provisions of this Act.

ENFORCEMENT AND PENALTIES

SEC. 103. (a) It shall be unlawful for any electric power plant or major industrial installation to violate any provision of this Act or to violate any rule, regulation, requirement, or order issued pursuant to this Act.

(b) (1) Whenever on the basis of any information available to him the Administrator finds that any electric power plant or major industrial installation is in violation of any provision, of this Act or any rule, regulation, or requirement issued pursuant to this Act, he shall issue an order requiring such facility to comply with such provision, rule, regulation, or requirement, or he shall bring a civil action in accordance with subsection (c) of this section.

(2) Any order issued under this subsection shall be in writing by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance not to exceed thirty days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(c) The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under subsection (b) of this section. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance.

(d) Any electric power plant or major industrial installation who violates any provision of this Act or any rule, regulation, requirement, or order issued pursuant to this Act shall be subject to a fine of $0.50 for each million British thermal units of energy resource or fuel consumed during the period such facility is not in compliance with such provision, rule, regulation, requirement, or order.

SEPARABILITY

SEC. 104. If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

DEFINITIONS

SEC. 105. For the purposes of this Act:

(a) The term "Administrator" means the Administrator of the Federal Energy Administration.

(b) The term "person" includes any person, material or artificial, including a Federal, State, or local agency, who owns, leases, operates, controls, or supervises any electric power plant or major industrial installation or unit thereof.

(c) The term "natural gas" includes dry natural gas, casing-head gas, and synthetic natural gas which is co-mingled with natural gas.

(d) The term "petroleum product" includes crude oil, residual fuel oil, or any refined petroleum product, as that term is defined in the Emergency Petroleum Allocation Act of 1973 (P.L. 93–159).

(e) The term "coal" includes such coal derivatives as synthetic gaseous, liquid, or solid fuels which are produced by processing coal and includes synthetic natural gas which is not co-mingled with natural gas unless on the site of the electric power plant or major industrial installation.

(f) The term "electric power plant" means a facility containing one or more fossil-fuel fired steam electric generating units that in combination are by design capable of being fired at a heat-rate of 50 million British thermal units (Btu's) per hour or greater to produce electric power for purposes of sale or exchange, and includes any person who owns, leases, operates, controls, or supervises such unit.

(g) The term "major industrial installation" means an installation other than a power plant that contains fossil-fuel fired boilers, burners, or other combustors of fuel that in combination are by design capable of being fired at a heat-rate of 50 million British thermal units (Btu's) per hour or greater and includes any person who owns, leases, operates, controls, or supervises any such installation.

(h) The term "primary energy source" means the amount of fuel used by an electric power plant or major industrial installation as boiler fuel except for the minimum amounts of other fuels required for boiler start-up, testing, flame stabilization, control uses, and fuel preparation.

REPORT

SEC. 106. The Administrator shall report annually to the Congress on the implementation of this Act.

AUTHORIZATION

SEC. 107. There are hereby authorized to be appropriated such amounts as are necessary to carry out the purposes of this Act.

Mr. JACKSON. Mr. President, in this time of critical energy supplies and undue dependence on foreign fuel sources, it must become a national policy to maximize the use of our domestic energy resources. Only in this way can we achieve necessary levels of energy self-sufficiency, and produce a guaranteed supply of fuels to assure continued economic growth and national security. While much attention has been focused on increased drilling and energy R. & D., the real key to national energy self-sufficiency in both the mid- and long-term lies in the proper development and utilization of our vast coal reserves.

The United States has about one-half of the world's coal reserves, some 1.5 trillion tons of recoverable coal. This coal can be burned directly as a solid fuel, used to generate electricity, or converted to synthetic crude oil or gas. Coal is accessible for mining now, rapid expansion of the industry is already being projected, and at greatly accelerated rates of production, our coal resources are adequate for some 500 years. In our search for more fuel, it is ridiculous to continue to ignore this great wealth of energy that literally lies at our feet.

It is imperative that we make a national commitment to developing this precious energy resource. Indeed, we have already taken certain steps in that direction. The Congressional program on the economy and energy, and President Ford's 1975 state of the Union message both call for greater utilization of our coal resources. But this will not be accomplished unless positive action is taken to achieve this goal. Unfortunately, coal is not as convenient to transport or burn as gas or oil, nor is it as clean a fuel. For these reasons, the Government must provide incentives and develop policies that will assure greater use of domestic coal.

The first move in this direction was taken last year when the Energy Supply and Environmental Coordination Act of 1974 (ESECA) was signed into public law. Under this act the FEA has had authority for 1 year to order existing powerplants and other major fuel-burning installations to burn coal rather than oil or natural gas, and to require new plants to be constructed with the capability for doing so. FEA does not, however, have authority to order new plants to actually burn coal. Orders issued under the act are valid until 1978, and must be carried out in compliance with applicable clean air standards.

To date, FEA has only been able to focus on powerplants, for which fuel burning data were readily available; they have not been able to identify yet those other major fuel burning installations which could be required to convert to

coal. Furthermore, even with regard to powerplants, conversion orders cannot be made effective until the details of an environmental control program have been worked out with EPA. Since FEA's authority under the act expires June 22, it appears likely that the bulk of the conversion program will not be effected without expeditious remedial action.

Mr. President, it is precisely for this reason, to assure the continuation and expansion of this vital program, that I join today with the distinguished Senator from West Virginia, Mr. RANDOLPH, and the senior Senator from Washington, Senator MAGNUSON, in introducing the "National Petroleum and Natural Gas Conservation and Coal Substitution Act of 1975." This measure is designed to remedy the unforeseen deficiencies in the original legislation and its implementation, and to facilitate and expand the program of coal substitution in a manner consistent with our national environmental goals. It extends the FEA's authority for an additional year, introduces penalties for noncompliance with the act, and simplifies the procedures for issuing prohibition and construction orders.

Mr. President, I believe that this measure is urgently needed, and clearly promotes the national interest. It will ease the task of FEA in implementing a national policy of coal substitution. This bill is another important move in the vital process of meeting our energy needs while protecting and maximizing our options for national self-determination. Unfortunately, we have very little time to act on this measure. I would, therefore, strongly urge my colleagues to adopt this bill as expeditiously as possible.

Another vitally needed step to further development of our domestic coal resources is enactment of the Surface Mining Control and Reclamation Act of 1975. Establishment of national guidelines for surface coal mining will remove much of the uncertainty which has plagued the coal industry particularly with respect to development of coal gasification and liquefaction. Congress should override President Ford's veto of this bill this week.

Mr. RANDOLPH subsequently said: Mr. President, I ask unanimous consent that the National Petroleum and Natural Gas Conservation and Coal Substitution Act of 1975, which I introduced earlier today, be referred jointly to the Committee on Interior and Insular Affairs and the Committee on Public Works.

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

By Mr. THURMOND:

S. 1778. A bill to impose a 1-year moratorium on the admission of aliens to the United States for permanent residence under the Immigration and Nationality Act. Referred to the Committee on the Judiciary.

S. 1779. A bill to reduce by 20 percent the number of aliens who may lawfully enter the United States for permanent residence under the provisions of the Immigration and Nationality Act. Referred to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, the recent evacuation of the Vietnamese refugees has created much concern in the United States. There appears to be two schools of thought regarding these Vietnamese refugees.

First, many of our citizens feel that we have a moral obligation to care for and relocate these unfortunate people. On the other hand, a number of Americans feel the United States should not assume the entire burden of caring for the Vietnamese refugees when the economic situation for our own people is so uncertain.

In order to offer a compromise between these positions, I am today introducing two bills which would modify our existing immigration laws. Basically, my approach is to either reduce or to temporarily halt immigration to our country to facilitate the orderly absorption of the Vietnamese refugees.

The first bill which I am introducing will establish a 1-year moratorium on immigration beginning on the date of enactment. The second bill will provide for a permanent 20-percent reduction in the number of immigrants allowed to come into the United States during a fiscal year.

Mr. President, I feel that either of these bills offers a position that is acceptable to all concerned. To the first group, it would be evident from this legislation that we are compassionate and sensitive to the refugees, and that we wish to care for those who would have been slaughtered at the hands of the Communists. To the other group, this legislation would show that the United States recognizes the problem of accepting these refugees with all of its long-range ramifications.

The American people are aware that the Vietnamese refugees need our assistance, but the American people are also aware that we must limit the number of immigrants entering this country so that we can adequately absorb these refugees. It is in this spirit that I introduce these two pieces of legislation.

Therefore, Mr. President, I send to the desk two bills and ask that they be printed in the RECORD.

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

S. 1778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 201 (a) of the Immigration and Nationality Act, relating to the numerical limitation on the admission of aliens to the United States for permanent residence, and the provisions of section 21(e) of the Act entitled "An Act to amend the Immigration and Nationality Act, and for other purposes", approved October 3, 1965 (79 Stat. 911), relating to the numerical limitation on the admission of special immigrants to the United States for permanent residence, no alien may be admitted to the United States for permanent residence or have his status adjusted to that of an alien lawfully admitted for permanent residence during the period beginning on the date of enactment of this Act and ending one year thereafter.

S. 1779

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201(a) of the Immigration and Nationality Act is amended by striking out "45,000" and "170,000" and inserting in lieu thereof "36,000" and "136,000", respectively.

SEC. 2. Section 21(e) of the Act entitled "An Act to amend the Immigration and Nationality Act, and for other purposes", approved October 3, 1965 (79 Stat. 911), is amended by striking out "fiscal year beginning July 1, 1968, or in any fiscal year thereafter, exceed a total of 120,000" and inserting in lieu thereof "fiscal years beginning July 1, 1968, through July 1, 1975, exceed a total of 120,000, and in any fiscal year thereafter, exceed a total of 106,000".

By Mr. HUMPHREY:

S. 1780. A bill to continue the special supplemental food program for women, infants, and children through September 30, 1975. Referred to the Committee on Agriculture and Forestry.

EMERGENCY EXTENSION OF SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Mr. HUMPHREY. Mr. President, the bill which I am introducing today will make no changes in current Government expenditure patterns, but will merely remedy an extremely serious problem.

It involves the special supplemental food program, known as WIC—women, infants, and children—which presently is scheduled to end on June 30, 1975.

The House of Representatives has already passed legislation extending WIC well beyond this date. Legislation I have cosponsored in the Senate, S. 850, will do the same. As a result, I fully expect WIC to be extended by Congress. There is tremendous professional and community support for WIC.

However, it does not appear that this new legislation will become law until late June 1975. This is what necessitates this bill. The States need some more immediate guarantee that funds will be available to continue WIC.

States must receive their letters of credit containing WIC funds by or near June 1, 1975, or they will have to close down their programs, disrupting the nutrition support and medical supervision of hundreds of thousands of low-income, pregnant women, infants, and children. Some States have already sent out the word to shut down programs.

This disruption is totally unnecessary. But it also would be bad public policy to stop the WIC program, dismantle the food delivery mechanism and stop the flow of medical data, only to have the entire program authorized and funded soon thereafter. This is the scenario which the bill seeks to prevent.

I am informed by the Department of Agriculture that there will be around $40 million unspent from this year's WIC authorization. This money can be carried over for the 3-month period authorized in this bill, thereby eliminating the need for any new funds. Of course, it is my hope that a permanent extension of authorization will soon become law.

However, until that happens, this provision is necessary to avoid a needless disruption of this valuable program.

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

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

S. 1780

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Child Nutrition Act of 1966 (80 Stat. 885, as amended; 42 U.S.C. 1786) is amended—

(a) by inserting after "1975," in the first sentence of subsection (a) the following: "and for the period July 1, 1975, through September 30, 1975,"; and

(b) by inserting after "1975," in the third sentence of subsection (b) the following: "and for the period July 1, 1975, through September 30, 1975,".

By Mr. CHILES (for himself and Mr. STONE):

S. 1781. A bill to amend title XVIII of the Social Security Act so as to enable certain aliens to obtain coverage under the supplemental medical insurance program established by part B of such title. Referred to the Committee on Finance.

Mr. CHILES. Mr. President, I introduce, on behalf of myself and Senator STONE, a bill to amend part B of the medicare program—supplementary medical insurance benefits for aged and disabled. This legislation is similar in intent to amendments I offered during consideration of the Supplementary Security Income Act of 1972 that were enacted into law. The purpose of this measure is to extend eligibility for participation in medicare part B to elderly Cuban refugees and other similarly situated persons.

The part B voluntary insurance program provides medical insurance benefits for aged and disabled individuals. Those who elect to enroll may receive benefit payments for home health services, some physician services, diagnostic tests, radiological and pathological services and outpatient physical therapy services. This program is financed from premium payments by those enrolled together with contributions from Federal funds. The present statute limits eligibility to a resident of the United States who has attained the age 65 and is either a citizen or an alien admitted for permanent residence who has resided in the United States for the preceding 5 years. What is proposed is to broaden eligibility to cover aliens who are residing in the United States under color of law, to include those present in this country as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act.

Our past actions have made clear the Federal responsibility for those who escaped from Cuba and their eligibility to participate in various Federal programs of assistance. There is no logical basis to exclude these refugees from participation in the voluntary insurance program. In fact the U.S. district court has held that the plan's current 5-year durational residency requirement did not meet the rational basis test necessary to accord with fundamental equal protection and due process notions.

I think it is important and necessary that the Congress clarify this question and assure that these elderly members of our society will be able to secure the benefits offered under the voluntary insurance program.

Mr. President, I ask unanimous consent that the bill I am introducing be printed in the RECORD.

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

S. 1781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1836(2) of the Social Security Act is amended to read as follows:

"(2) has attained age 65 and is a resident of the United States, and

"(A) is a citizen of the United States,

"(B) is an alien lawfully admitted for permanent residence in the United States, or

"(C) is an alien who is not lawfully admitted for permanent residence in the United States but who is (and on January 1, 1975, was) otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act),".

(b) For purposes of section 1837(d) of the Social Security Act, an individual, who does (but would not except for the amendments made by subsection (a)) first satisfy paragraph (2) of section 1836 of such Act on a date which is prior to the date of enactment of this Act, shall be deemed first to satisfy such paragraph (2) on the date of enactment of this Act.

Mr. STONE. Mr. President, through an unfortunate oversight, the opportunity was lost some years ago to amend the medicare part B voluntary insurance program of title XVIII of the Social Security Act. Such an amendment would have enabled many Cuban refugees living in our country and other persons of similar status to be eligible for the benefits offered by this program. It is very important, Mr. President, that these individuals be included in the voluntary insurance program. Many elderly persons are presently excluded despite the fact that they are hardworking and contributing members of our society.

For this reason, I want to cosponsor S. 1781, introduced by my distinguished senior colleague from Florida, Senator CHILES, amending part B of the medicare program—supplementary medical insurance benefits for aged and disabled—in order to include Cuban parolees and other persons of like status among the voluntary beneficiaries of welfare assistance to the blind, aged or permanently disabled. This program offers benefit payments for home health services, diagnostic tests, and pathological and outpatient physical therapy services. Unlike other welfare programs, there is no requirement of impoverishment for participation in medicare part B.

Certainly, Mr. President, Congress should promptly look into this matter and enact legislation to extend the benefits of this program to persons who are entitled to them.

By Mr. BROCK:

S. 1782. A bill to make unlawful the transportation, sale, or receipt of counterfeit recordings. Referred to the Committee on the Judiciary.

Mr. BROCK. Mr. President, the unauthorized reproduction of recorded music and other performances has become a serious threat to the legitimate performers, songwriters, and recording companies throughout the United States. This wrongful appropration of the product of others' creative talents has been aptly dubbed "tape piracy" by the music industry. With the development of modern technology, tape piracy operates across State lines and in violation of the laws, both criminal and civil, of the several States.

A phonograph record is created at great expense and through the combined talents of both creative and technical people in the industry. The composer's song is performed in a modern, complex recording studio under the direction of skilled producers and engineers and to the accompaniment of highly compensated musicians. The recording company bears the expense, not only of the production of the artist's performance itself, but also of the advertising, promotion, manufacture, and distribution of the finished product in the form of phonograph records and tapes. Many thousands of dollars are expended in this process. It is estimated in the industry that not more than 30 percent of the records released are sufficiently successful for the recording company merely to recoup its expenses. Not more than 1 of every 10 records released attains a substantial profit. From the profits realized by the sale of this 1 record in 10, the recording company is able to encourage and develop new artists, to issue classical and ethnic music, and to recoup their losses incurred with respect to the nonprofitable product. From the sale of these records, the performing artist receives the royalties which constitute a substantial part of his income and the composer of the song, and his publisher, are paid royalties enabling him to continue his creative efforts.

The tape pirate has no investment in the musical performance. He steals it readymade and only after the efforts of the legitimate industry have made it a commercial success. The typical pirate obtains a commercial copy of the legitimate product from which he produces thousands and even hundreds of thousands of illicit copies. Having little, if any investment, other than the direct cost of his manufacture and paying no royalty for the performance appropriated by him, the pirate is able to offer a product to the public at substantially reduced prices. It is estimated that the sales of pirated musical performances in the United States during the past year substantially exceed a quarter of a billion dollars. The composer is frequently denied compensation for the use of his song, the artist receives no recompense for his talent, and the funds available to develop the new aspiring artists and to record the great symphony orchestras of our country are eroded.

Enforcement of existing legislation against tape piracy is being pursued under the Copyright Act by the Department of Justice and under diverse criminal statutes by the local authorities in those 30 States which have enacted criminal prohibitions against the practice. Unfortunately, the provisions of the

Copyright Act are such as to render effective prosecution difficult, particularly in the case of the performance of our older artists. For instance, the performances of the legendary Hank Williams who died in 1953 are heavily pirated to the detriment of his heirs. Yet, the Copyright Act with respect to phonograph records cannot be utilized for protection. Law enforcement officials, both State and Federal, have observed with concern the infiltration of hardened criminals and criminal organizations into tape piracy attracted by the high profits and cash transactions, which typify the pirate operation. Illicit products manufactured in Oklahoma are to be found in the stores and truck stops of New Jersey. Pirate tapes manufactured in Florida are shipped to California for sale. Interstate commerce is utilized in the perpetration of these offenses. The crime is truly national and can best be dealt with upon that basis.

The legislation which I am introducing today will give to the owners of record performances the same protection which is afforded the owners of stolen securities or the owners of stolen automobiles. The procedures are those with which every U.S. attorney is familiar. The early enactment of the bill will afford a deserved protection to those creative persons who have given so much enjoyment to the American public for so long.

By Mr. BROCK:

S. 1783. A bill to amend title XVIII of the Social Security Act to provide for comprehensive and quality health care for persons with communicative disorders under the health insurance program—medicare—including preventive, diagnostic, treatment and rehabilitative functions. Referred to the Committee on Finance.

THE COMMUNICATIVE HEALTH CARE AMENDMENTS OF 1975

Mr. BROCK. Mr. President, today, I am introducing a bill to amend title XVIII of the Social Security Act which will reorganize and clarify the present medicare coverage of speech pathology and audiology services, and expand the medicare program to include aural rehabilitation services.

Several weeks ago, I introduced S. 1465 to clarify the language in the Social Security Act Amendments of 1972—Public Law 92-603—regarding outpatient speech pathology services. In my remarks at that time—CONGRESSIONAL RECORD, April 17, 1975, pages S6058-9—I outlined the basic problem which has forced those medicare-eligible Americans in need of speech pathology services to go without medicare reimbursement although we authorized coverage effective January 1, 1973. I regret that I am not able to report that progress has been made by the Department of Health, Education, and Welfare and the Social Security Administration in implementing the 1972 congressional mandate. Other of my distinguished fellow colleagues in the Senate, as I have, received commitments from the Secretary's Office and Commissioner Cardwell that regulations would be released on or about April 15 to implement the 1972 language, as of yet they have not appeared. The confusion caused by the joining of speech pathology and physical therapy services in the 1972 amendments must be rectified. The legislation I am proposing seeks to redefine speech pathology services, together with audiological services, in a communicative services definition under section 1861 of the Social Security Act.

In the United States today, there are some 21 million Americans with some degree of communicative disorder. Of this number, estimates have placed as high as 3.7 million the number who suffer significant communicative handicaps and are 65 years of age or older. The Congress has made great strides in providing health care services to these Americans, but, due to legislative drafting and departmental inaction, such services have received only minimal implementation. Speech pathology services—prior to the 1972 amendments called speech therapy—have been an integral part of the medicare system since its inception when provided under medicare's part A coverage through hospital inpatient services, skilled nursing facilities and home health services, and under part B as a skilled nursing facility or home health agency service. This coverage would be continued under this legislation as speech pathology services, with one minor exception to so-called "under arrangements" reimbursement.

The present reimbursement conditions have denied recognition to the speech pathologist as a qualified medicare provider, although speech pathology services are reimbursable. The speech pathologist rendering services in a hospital—inpatient or outpatient—a skilled nursing facility or home health agency as an outside resource provider to such institutions must submit a bill for such services to the institution who in turn submits a bill to the medicare fiscal intermediary which then makes payment to the institution and finally to the speech pathologist. Such convoluted administrative procedures cannot be justified.

The loss to the medicare trust funds in repetitive administrative charges must be stopped now so that these health care resources may be channeled to providing needed health care services. I firmly believe that the cost of additional administrative paperwork may be sufficient to cover expanded aural rehabilitation services proposed by this legislation. In talking with providers of speech pathology services in my home State of Tennessee, I have had it repeatedly told to me that where the fiscal intermediary will reimburse at a rate of $20 to $25 per hour, the hospital, skilled nursing facility or home health agency will bill the medicare system anywhere from 20 to 100 percent more as administrative costs. This loss is a tragic waste of scarce health care dollars which cannot be justified.

Not only are we faced with a drain caused by unnecessary paperwork, but many speech pathology providers are not reimbursed promptly—or even at all. How can we expect services to be provided when the provider faces extended periods between billing the "qualified provider" and his being reimbursed or in not being reimbursed at all? I have received reports where speech pathology services were rendered, properly billed in the amount of $15,000—requiring two full-time speech pathologists over a period of 6 months—to the qualified institution which was paid by the fiscal intermediary. The institution has subsequently refused to reimburse the speech pathology provider. The qualified institution is now being sued to recover this debt for service. The speech pathology provider must in the interim charge higher costs to cover his salaries, legal fees, and borrowings.

In the end, the elderly, the medicare system, and the speech pathologist lose.

The bill I am proposing will end this waste of medicare resources by requiring that where services are provided under arrangements by an outside resource, the reimbursement by the fiscal intermediary will be made to a separate account payable to the outside resource provider. The Secretary, through his rulemaking power, would be expected to establish the conditions which would insure that the outside resource provider is promptly reimbursed and that the administrative costs are kept to an absolute minimum. Through such procedures, we will be able to realize a net savings in administrative costs which can be allocated to upgrading health care services.

A new definition would be created under section 1861(x) of the Social Security Act for communicative services. Basically, these are health care services to the speech and hearing impaired by the communicatively handicapped individual. Speech pathology and audiology services could be provided by a hospital, agency or individual qualified practitioner upon referral by a physician. Such providers could offer either speech pathology or audiology services, or both health services.

The provider would be required to be licensed if applicable State law so required and to meet such other health and safety standards as the Secretary of Health, Education, and Welfare might deem necessary. I am proud to be able to say that Tennessee was one of the first States to license the speech pathology and audiology professions in April 1973. Presently, Tennessee and 23 other States require these health care professionals to be licensed under high standards of academic and clinical experience meeting or exceeding the standards established by the Department of Health, Education, and Welfare for medicare and medicaid services. These HEW standards—20 Code of Federal Regulations sections 405.1101(t), 405.1208(u); and 45 Code of Federal Regulations section 249.10(b)(11)(iii)—require the speech pathologist or audiologist to either hold the certificate of clinical competence—requiring the holder to have at least a master's degree, 300 clock hours of supervised clinical speech pathology or audiology experience at the academic institution, at least 9 months of full-time supervised professional experience in speech pathology or audiology in bona fide clinical settings, the clinical fellowship year, and successful completion of

the national examination in speech pathology or audiology administered by the Educational Testing Service—awarded by the American Speech and Hearing Association or its equivalence; or, have the required educational requisities and be in the process of completing the necessary supervised clinical requirements, would be required where the State did not have a present licensure requirement meeting at least the present medicare standards of participation.

The health professions of speech pathology and audiology are independent professions whose services are rendered upon physician referral. Under the present medicare structure, these professions have been inadvertently wronged, by what I believe was a misunderstanding as to their professional relationship to the total health care system by the Congress, viewing their services as a prescriptive health service. The speech pathologist and audiologist should be granted in fact, as is presently occurring in day-to-day practice, recognition of their position as a professional member of the health care team. This bill will accomplish this long overdue recognition by basing their relationship to medicine upon referral. By requiring the physician and the speech pathologist or audiologist to review the health care plan for an individual, an active and cooperative health care delivery system can provide quality health care to the communicatively handicapped of this Nation.

An important new service would be offered by this legislation. Presently, medicare will reimburse for evaluative audiologic testing by an audiologist if prescribed by a physician to aid in his evaluation of his medical diagnosis. Any additional services which can be offered by the audiologist as the result of his training are not reimbursable although the physician may order such services—that is aural rehabilitation, hearing amplification examination, or other counseling. We are quite frankly saying to the aged with hearing impairments that once the physician has determined that no organic-medically remediable condition exists, you are no longer eligible for the opportunity to participate in society unless you can pay for it. It seems anachronistic that with today's societal belief in the quality of human life that we allow such tragic disregard for one of the most common health care problems of the aged—loss of hearing.

This legislation will remove the present exclusion of section 1862(a)(7) of the Social Security Act covering hearing aid examinations.

The need for being able to provide the hearing impaired geriatric population with a plan for helping those individuals to achieve the highest possible level of hearing health is one of the serious deficiencies of the present medicare program. The Federal Government through the Veterans' Administration, Rehabilitation Services Administration, Department of Defense, and the medicaid health care programs provides such services today. In this regard, it is strange that through the medicaid system the Federal Government has been providing hearing health care services but has ignored such services under medicare. One of the most common causes of hearing loss among the elderly is presbycusis—a condition manifesting itself in a deterioration of the auditory nerve endings which transmit and receive sounds. Many times, such hearing loss can be ameliorated by use of hearing amplification. The audiologist is trained through academic and clinical experience to evaluate such loss and to make an appropriate recommendation as to the desirability of hearing amplification. It is this evaluative study which would be covered by this legislation together with followup aural rehabilitation for the individual who acquires hearing amplification. The individual who would not be helped by use of amplification but may be helped through other rehabilitative services offered by the audiologist would also for the first time under medicare be eligible for these services. I have seen and heard of numerous instances in traveling through Tennessee where older people say they have purchased a hearing aid but fail to wear it because it does not work, does not fit properly, or is not helping their hearing. Many times, if hearing amplification is an appropriate remediative procedure, the wearer receives no counseling and followup services to acquaint him with the use, operation, and care of the device. The psychological acceptance of hearing amplification may be a very traumatic step for an older person. Without aural rehabilitation services, the use of amplification may never be accepted and the individual further retreats from social interaction. Furthermore, such individual will most likely have a negative attitude toward later attempts by family and friends to seek health care services for his hearing loss.

Finally, this legislation directs the Secretary of Health, Education, and Welfare to conduct experiments and demonstrations to determine cost effective delivery systems for communicative services under the authority granted by the 1972 amendments. We must seek to find new ways which will insure quality health care to America's communicatively handicapped. With projections that that number of Americans over the age of 65 will double by the year 2020 to over 40 million, today is not too soon to lay the groundwork for developing new health care delivery modalities and insuring availability of adequate qualified manpower to provide services to communicatively handicapped Americans.

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

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

S. 1783

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 Communicative Health Care Amendments of 1975."

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the health of the Nation's aged, blind and disabled is the foundation of their physical, psychological, economic, and social well-being and of maintaining and upgrading our Nation's productivity and strength;

(2) approximately 21,000,000 suffer some degree of communicative disorder; of this number, some 3.7 million Americans are 65 years of age of older;

(3) the purposes originally envisioned for health care under Title XVIII of the Social Security Act have failed to adequately diagnose, treat and rehabilitate those aged, blind and disabled Americans with speech, language or hearing disorders; and,

(4) the health care delivery system of the United States can through proper direction and utilization provide the Nation's aged, blind and disabled persons with high-quality amelioration of impairments caused by communicative disorders.

(b) The purpose of this Act is to consolidate and clarify the health care coverage of present services; to increase the benefits for covered services to produce comprehensive and quality health care for communicative disorders; and, to provide for studies by the Secretary of the Department of Health, Education and Welfare, and reports to the Congress on the need for additional qualified health manpower, alternatives to present delivery systems, and the effectiveness of the present system to provide comprehensive health care for communicative disorders.

REORGANIZATION OF HEALTH INSURANCE BENEFITS UNDER TITLE XVIII

SEC. 3. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal of a title, part, section, or other provision, the reference is to a title, part, section, or other provision of the Social Security Act.

SEC. 4. (a) Section 1814(a)(2)(D) is amended—

(1) by deleting the words, "or speech therapy", and substituting, in lieu thereof, "therapy, or speech pathology or audiology services"; and

(2) by adding after the words, "and is periodically reviewed by a physician", the following words, "and the health professional rendering such services, if other than the physician".

(b) Section 1815 is amended by deleting the period at the end thereof, and adding the following words and figures, ", subject to the conditions provided for in section 1861(w)."

(c) Section 1835(a)(2)(A)(i) is amended—(1) by deleting the words and figures "section 1861(m)(7)", and substituting in lieu thereof, the following words and figures "sections 1861(m) (7) and (8)"; and

(2) by deleting the words "or speech therapy" and substituting, in lieu thereof, the words "therapy, or speech pathology or audiology services".

(d) Section 1835(a)(2)(B) is amended by deleting the words "and (D)", and substituting, in lieu thereof, the words "(D), and (E)".

(e) Section 1835(a)(2)(D) is repealed.

(f) Section 1835(a) is amended by deleting the words "and (e)", and substituting, in lieu thereof, the words "(e) and (f)".

(g) Section 1835 is further amended by adding at the end thereof, the following new section, "(f) Payment for services described in section 1861(x) furnished an individual may be made only to providers of services which are eligible therefor under section 1866, and only if (1) the provisions of paragraph (a)(1) of this section are complied with, and (2) the physician together with the speech pathologist or audiologist providing such services, certifies (and recertifies, where such services are furnished over a period of time, with such frequency as may be provided by regulations) and such services (i) are or were required by the individual and (ii) meet the requirements of section 1861(w).

(h) Section 1861(h) is amended by substituting, in lieu thereof, the following words and figures, "(h) The term 'extended care

services' means the following items and services furnished to an inpatient of a skilled nursing facility and [except as provided in paragraphs (3), (4) and (7)] by such skilled nursing facility—

(1) nursing care provided by or under the supervision of a registered professional nurse;

(2) bed and board in connection with the furnishing of such nursing care;

(3) speech pathology or audiology services furnished by the skilled nursing facility or by others under arrangements with them made by the facility;

(4) physical or occupational therapy furnished by the skilled nursing facility or by others under arrangements with them made by the facility;

(5) medical social services;

(6) such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the skilled nursing facility as are ordinarily furnished by such facility for the care and treatment of inpatients;

(7) medical services provided by an intern or resident-in-training of a hospital with which the facility has in effect a transfer agreement [meeting the requirements of subsection (1)], under a teaching program of such hospital approved as provided in the last sentence of subsection (b), and other diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement in effect; and

(8) such other services necessary to the health of the patients as are generally provided by skilled nursing facilities; excluding, however, any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital."

(i) Section 1861(m) is amended—

(1) by striking out in paragraph (2), the words "occupational, or speech" and substituting, in lieu thereof, "and occupational";

(2) (A) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(B) by striking out the figure "7" in line seven of this subsection and substituting, in lieu thereof, the figure "8"; and

(C) by inserting after paragraph (2) the following new paragraph: "(3) speech pathology and audiology services as defined in subsection (x);".

(j) Section 1861(o)(2) is amended by striking out the words "or registered professional nurse" at the end thereof, and substituting, in lieu thereof, ", registered professional nurse, or other qualified health professional".

(k) Section 1861(p) is amended by striking out the last sentence thereof.

(l) Section 1861 (s)(2) is amended—

(1) by striking out at the end of clause (C), the word "and", and inserting such word at the end of clause (D); and

(2) by inserting the following new clause at the end thereof: "(E) outpatient communicative services;".

(m) Section 1861(v)(5)(A) is amended by striking out the words "speech therapy services".

(n) Section 1861(w) is amended by inserting the following new sentence at the end thereof: "Where receipt of payment by the hospital, a skilled nursing facility, or home health agency is based upon services provided by an outside resource, such payment shall be specifically payable to such outside resource provider (under such regulations as the Secretary may determine), and not to general revenue funds of said hospital, skilled nursing facility, or home health agency."

(o) Section 1861(x) is amended by striking out the subsection heading and all following, and substituting, in lieu thereof, the following new words and figures:

"COMMUNICATIVE SERVICES

(x)(1) The term 'communicative services' means speech pathology and audiology services furnished by a provider of services, a clinic, rehabilitation agency, public health agency, or individual, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency to an individual as an outpatient upon referral by a physician.

(A) Any such services—

(i) if furnished by a clinic or rehabilitation agency, or by others under arrangements with such clinic or agency, unless such clinic or rehabilitation agency—

(I) provides an adequate program of speech pathology and/or audiology services (including diagnostic and rehabilitative services) for outpatients and has the facilities and personnel required for such program or required for the supervision of such a program, in accordance with such requirements as the Secretary may by regulation specify,

(II) has policies, established by a group of professional personnel to govern the services it provides,

(III) maintains clinical records on all patients,

(IV) if such clinic or agency is situated in a State in which State or applicable laws provide for the licensing of institutions of this nature and speech pathologists and audiologists, is licensed pursuant to such laws or is approved by such State or locality responsible for licensing such institutions or professions, as meeting the standards established for such licensing; and

(V) meets such other conditions relating to the health and safety of individuals who are furnished services on an outpatient basis, as the Secretary may by regulation find necessary;

(ii) if furnished by a public health agency, or by others under arrangements with such public health agency, unless such agency meets the conditions prescribed by clause (i)(V); or,

(iii) if furnished by an individual, unless such individual meets the conditions prescribed by clauses (i)(I), (III), and (V), and if such individual is situated in a State in which State or applicable law provides for the licensing of speech pathologists and audiologists, is licensed pursuant to such law or is approved by such State or locality responsible for licensing such professions, as meeting the standards established for such licensing.

(2) Excluding, however, any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital."

(p) Section 1862(a)(7) is amended by striking out the words "or examinations therefor".

(q) Section 1866 is amended by adding at the end thereof the following new paragraph: "(f) For purposes of this section, the term 'provider of services' shall include a clinic, rehabilitation agency or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1861(x)(1)(A)(i), or if in the case of a public health agency, such agency meets the requirements of section 1861(x)(1)(A)(ii), but only with respect to the furnishing of communicative services (as therein defined)."

SEC. 5. Section 1872 is amended by adding immediately after the words and figures "of section 205", the following words and figures ", and of subsections (h) and (i) of section 210".

SEC. 6. The Secretary of Health, Education and Welfare is directed under the authority granted by section 222(a) of the Social Security Act Amendments of 1972 (86 Stat. 1390–1391) to include with the experiments and demonstration projects such activities relating to the delivery of health care to the communicatively impaired, and to submit to the Congress no later than July 1, 1977, a full report on such experiments and demonstration projects.

SEC. 7. The following technical amendment; the Table of Contents is amended by striking out the words "State and United States" in subsection 1861(x) and substituting, in lieu thereof, the words "Communicative Services".

By Mr. BROCK:

S. 1784. A bill to amend title XVIII of the Social Security Act to provide for coverage of comprehensive hearing health care services, including provision for hearing amplification devices financed in part by the Federal Government. Referred to the Committee on Finance.

Mr. BROCK. Mr. President, the incidence of significant hearing loss among more than 3 million Americans 65 years of age and older is a continuing problem which continues to be ignored by the medicare program. The legislation I am introducing today will provide hearing health care to those participating in the medicare program.

Basically, this legislation will remove the present restriction in section 1862(a)(7) of the Social Security Act prohibiting medicare from covering the examination for the appropriateness of, and actual acquisition of hearing amplification subject to certain cost sharing provisions. In determining the appropriateness of hearing amplification, a physician and an audiologist must sign a written authorization recommending that the individual's hearing loss will be ameliorated by use of hearing amplification and that such device should be acquired. Only after obtaining such authorization will the medicare system undertake to cover a share of the cost of acquiring such amplification device.

It is most appropriate that starting today the distinguished Senator from New Hampshire and chairman of the Subcommittee on Government Regulations of the Select Committee on Small Business, Senator MCINTYRE, is conducting 3 days of hearings on problems of the hearing aid industry. As a member of the subcommittee, I feel these hearings will be most helpful in addressing an important sector of providing quality hearing amplification devices to the Nation's hearing impaired.

The controversy and confusion surrounding the delivery of hearing amplification devices to the public has continued far too long. The Senate has evidenced a continued interest in this issue starting as far back as April 1962 in hearings held by the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary chaired by Senator Estes Kefauver. Subsequently, the Subcommittee on Consumer Interests of the Elderly of the Special Committee on Aging under the able leadership of its chairman, Senator FRANK CHURCH, has conducted hearings on the impact of hearing aids and the older American in July 1968 and, again, in September 1973. We cannot continue to muddy the waters on this issue but must seek to arrive at a just and equitable solution which will guarantee quality and cost efficient

health care services to the same 3.3 million Americans 65 years of age and older who have significant hearing impairment.

At least 88 percent of all Americans 65 years of age and older experience some degree of hearing loss. In some cases, presbycusis—that is, old-age hearing loss—is caused by impairment of the hearing mechanism—that is, the ear—and may be ameliorated by use of a hearing aid. In as many instances, however, presbycusis is the result of damage to the central nervous system—that is, brain and nervous system—for which hearing aids provide little, if any, assistance. In these latter cases, the elderly person's receptive hearing mechanism may operate effectively, but impairment of his central auditory mechanism interferes with his "understanding" of what he hears. Such elderly individuals often exhibit symptoms generally associated with senility—inappropriate communication responses, anxiety, depression, withdrawal, and ultimately, refusal to communicate. They are diagnosed as senile and so treated.

By assuring that the individual with a hearing loss from presbycusis caused by central nervous system disorders is appropriately evaluated, and appropriate aural rehabilitation can be provided by the appropriate health care professional—that is, certified or licensed audiologists.

In those instances where, after an otologic examination by a physician and an audiologist, they issue a written authorization as to the necessity for hearing amplification, the cost of acquiring the amplification device would be reimbursable by medicare upon a sliding scale from a minimum of 25 percent of the device's cost to a maximum of 75 percent, and any appropriate aural rehabilitation necessary to produce the highest level of auditory function.

The hearing loss faced by America's 65 years of age and older population has been virtually ignored by the medicare system. The loss occasioned by decreased visual acuity has long since been considered a health impairment calling upon evaluation and treatment by qualified health care professionals. While it may be argued that the determination of hearing amplification cannot be delineated with the same precision as eyeglasses, to deny to hearing impaired Americans what modern health science and the the health care professions directly concerned with hearing loss—the physician and the audiologist—can provide towards hearing health care is a tragic loss. This legislation is needed to provide quality health care services to medicare eligible individuals.

The cost of hearing amplification has always been one of the primary objections to including such coverage under the medicare program. I believe that with with appropriate cost sharing between the medicare program and the individual, the overall program costs can be maintained within reasonable limits. By placing a minimum-maximum limitation on costs, it will allow the Secretary of Health, Education and Welfare to determine income categories and reasonable costs which will help to assure effective program management. Under the present program operated by the Veterans' Administration, Rehabilitative Services Administration, medicaid—including the early and periodic screening, diagnosis and treatment program for children—Department of the Army, and the maternal and child health and crippled children's services, the Federal Government is covering the cost of hearing amplification devices. The experience gained by the various Departments and Federal agencies can provide the Secretary with the needed statistical models necessary for determining reasonable cost and replacement standards for such devices. These programs have been able to reduce the cost of hearing amplification devices to their patients while the general consuming public pays three to ten times such costs while receiving, what in many instances is, less than quality health care services. The Secretary in establishing cost guidelines for the reasonable cost of such devices will promote income levels of the individual to the percentage of the Federal share of the amplification devices cost. It seems only logical that as a person's income rises, he or she becomes more capable of bearing an increased share of the cost of such devices. On the other side of the scale, persons who are in the lower income ranges should be given added assistance in acquiring needed amplification.

We have ignored the hearing impaired older American for too long. The bill which I have introduced today will help us to redress this problem. I would be pleased to have any of my fellow colleagues, many of whom have taken an active interest in the problems of the hearing impaired over the years, to join with me in cosponsorship of this vital legislation.

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

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

S. 1784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1862(a)(7) of the Social Security Act is amended by striking out the words "hearing aids or examinations therefor,".

(b)(1) Section 1861(s) of the Social Security Act is amended

(A) by striking out "and" at the end of paragraph (8);

(B) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and", and renumbering the succeeding paragraphs "(10), (11)), (12) and (13)" as "(11), (12), (13) and (14)" respectively; and

(C) by inserting the following new paragraph immediately after paragraph (9), "(10) diagnostic and rehabilitative audiologic services furnished by an audiologist, including hearing amplification devices and replacement of such devices subject to such conditions as the Secretary may by regulation determine [such services and devices subject to the conditions imposed by paragraph (15) and subsection (v)(8)]."

(2) Section 1861(s) of such Act is further amended by inserting the following immediately after paragraph (14), "The items and services referred to in paragraph (10) shall be—

(15)(A) with regard to diagnostic and rehabilitative services, services which are furnished upon referral by a physician to an audiologist who (i) is licensed to practice by the State in which he performs such services and meets such other conditions as determined by the Secretary as are necessary to the health and safety of individuals with respect to whom such services are furnished, or (ii) meets such other standards relating to the health and safety of individuals with respect to whom such services are furnished as the Secretary may by regulation determine necessary.

(B) with regard to hearing amplification devices, the need for such devices is authorized in writing by a physician and an audiologist.

(3) Section 1861(v) of such Act is amended by inserting the following new paragraph at the end of such subsection, "(8) For the purposes of subsection (s)(10), there shall be a limitation upon the Federal participation in the acquisition of any hearing amplification device in an amount not less than twenty-five percent (25%) nor more than seventy-five percent (75%) of the reasonable cost of such devices as established by the Secretary."

(4) Section 1864(a) of such Act is amended by redesignating the references to paragraphs (10) and (11) of section 1861(s) as paragraphs (11) and (12), respectively.

By Mr. BENTSEN:

S. 1788. A bill to facilitate the sale of U.S. agricultural commodities to be stored in the United States not subject to export control and restricted from resale into the U.S. markets. Referred to the Committee on Agriculture and Forestry.

Mr. BENTSEN. Mr. President, I am introducing a bill today to allow foreign entities to utilize the excess farm commodity storage that we have in this country.

We are all aware of the increasingly serious dimensions of the world food problem. As a major producer of foodstuffs the United States has a clear obligation to assist in developing solutions to meet this crisis as long as our needs here at home are being met as well. In addition, providing storage for the commodities we sell would be a great trading asset at a time when our farmers worried about possible overproduction this fall.

During last year's food conference in Rome, a great deal of discussion centered around the inability of foreign countries to hold adequate food reserves. As an example, the mideastern and African countries are very short on storage ability. In recent years, Iraq has been able to hold stocks of only 6 percent of its annual consumption, Syria only 5 percent, and Algeria none at all. Even Iran, despite having much greater storage capacity and building more, has indicated strong interest in storing commodities in this country.

Food aid to the drought stricken north of Africa countries has been difficult because once the grain was shipped to that area, storage capacity was almost nonexistent. For instance, even the more developed north African countries of Morocco and Tunisia were able to store only 3 percent and 18 percent respectively of their consumption last year.

Japan, one of our greater customers, has limited, expensive storage, and land costs are preventing the country from increasing its capacity in this regard.

Japan has shown great interest in being able to carry stocks in the United States, particularly for soybeans and cotton. Cotton merchants report that if Japanese storage ability could be increased, it would be a boon to our exports sales of that commodity.

The bill I proposed today would be a great service to these countries by allowing them to utilize our excess storage to build supplies for future use.

Mr. President, this bill would allow foreign countries, or companies to purchase and store U.S. farm commodities in this country and would specify that such commodities would not be subject to our export controls. To control the total storage under foreign use, approval would have to be obtained before commodities could be stored.

Once stored, the commodities would be considered as exported and could not be resold in this country, except under the restrictions and regulations applicable to regular imported commodities. This provision is necessary to protect our own domestic market from foreign "dumping" practices. Further protection for our producers is provided in section 2 of the bill which directs the Secretary of Agriculture to allow the foreign storage only after insuring that adequate storage is available for domestically owned commodities.

Mr. President, I mentioned earlier that this bill will be of assistance to this country, as well as the foreign countries who chose to make use of its provisions. The current administration urged our farmers to maximize production, yet refused to approve the new farm bill which would have given the producers protection from over-production. This leaves our farmers but one choice: to continue to expand our export markets.

However, one restraining factor to foreign countries buying more of our commodities is their shortage of storage capacity. By allowing them to store a portion of their purchased commodities here, they will be able to increase their purchases as well as plan more carefully for future supplies. Thus, the ability to offer storage with a commodity sale would be a significant trading advantage for this country.

Mr. President, the USDA currently estimates that off-farm grain storage capacity in warehouses to be 5,914,203,000 bushels, and only 47 percent of this capacity is being utilized. In addition, off-farm storage capacity for cotton is now about 20,000,000 bales, while it is estimated that only ½ to ⅔ of the capacity will be utilized this fall. This means that much of our storage capacity is now an economic drain and casts a doubt on whether this capacity can be maintained for the future. If foreign interests could utilize this storage, it would enable this country to maintain its abundant storage capacity as well as retain a great many jobs for American workers.

Because section 2 of my bill will protect our access to this extra storage, we are insured of this capacity in the future, rather than losing it because of lack of current need.

In summary, Mr. President, this bill would encourage foreign countries to increase their purchase of agricultural commodities from the United States, an obvious advantage in 1975 when we anticipate large crops and increased stocks. Foreign countries would be encouraged to make such purchases because of the ample storage facilities at reasonable cost available in the United States, the wide variety of qualities of practically all major commodities available from this country as well as the proposed U.S. Government guarantee against export restrictions. By making our excess storage available, we would enable the food deficit countries to hold stocks and overcome the swings in food availability that handicaps much of the world.

Storage in the United States of commodities owned by foreign buyers would earn foreign exchange for the United States, improving our balance of payments situation; and by using storage facilities not otherwise utilized would provide income and jobs in the communities involved. At the same time, by restricting resale to this country, and controlling the amount of foreign controlled storage, our domestic producers would be protected.

Mr. President, I would hope that my colleagues would join me in support of this measure.

I ask unanimous consent that the bill be printed in the RECORD, together with a USDA table showing the percentage of storage utilization for grains and oilseeds.

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

S. 1788

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

SECTION 1. That notwithstanding any other provision of law, foreign countries, agents or agencies thereof and foreign companies may purchase and store U.S. agricultural commodities or products thereof in the U.S., and to the extent in storage the commodities shall not be subject to any export controls or restraints. Such stored commodities shall not be resold into the U.S. except under the restrictions and regulations applicable to imported commodities. The Secretary of Agriculture shall keep an accurate accounting of all commodities stored under this section, and shall supply a report of such accounting to the Secretary of Commerce.

SEC. 2. Before commodities can be stored under the provisions of this Act, prior approval from the Secretary of Agriculture must be obtained by storage facility involved. The Secretary of Agriculture shall issue such approval so as to insure adequate storage for domestically owned commodities. Both state and federally approved storage facilities shall be eligible for such approval.

SEC. 3. The Secretary of Agriculture is authorized to issue such regulations as necessary to carry out the provisions of this act.

Total off-farm stocks compared with total off-farm storage capacity

[Grains and oilseeds]

Percent

January 1, 1975	47
January 1, 1974	51
January 1, 1973	56
January 1, 1972	60
January 1, 1971	58
January 1, 1970	62

SOURCE.—Grain Division, Agriculture Market Service, U.S.D.A.

By Mr. CRANSTON (for himself, Mr. MONDALE, Mr. WILLIAMS, Mr. RANDOLPH, Mr. TUNNEY, Mr. GOLDWATER, and Mr. PERCY):

S. 1789. A bill to amend the Domestic Volunteer Service Act of 1973 and the Peace Corps Act to provide for an increase in the VISTA volunteer stipend and Peace Corps volunteer readjustment allowance, respectively. Referred, by unanimous consent, to the Committee on Labor and Public Welfare and the Committee on Foreign Relations.

Mr. CRANSTON. Mr. President, I introduce today for myself and the Senator from Minnesota (Mr. MONDALE) and for the Senator from New Jersey (Mr. WILLIAMS), who is the chairman of the Labor and Public Welfare Committee, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Arizona (Mr. GOLDWATER), the Senator from Illinois (Mr. PERCY), and my colleague from California (Mr. TUNNEY) S. 1789, a bill to amend the Domestic Volunteer Service Act of 1973 and the Peace Corps Act to provide for an increase in the VISTA volunteer stipend and Peace Corps volunteer readjustment allowance, respectively.

Mr. President, we first introduced legislation providing for up to a 50 percent cost-of-living increase in the end-of-service allowances of Peace Corps and VISTA volunteers as a floor amendment a year ago during Senate consideration of the Peace Corps Authorization Act for fiscal year 1975. Our amendment carried the Senate but was later dropped when the House would not accept it. That action was taken, Mr. President, only because the ACTION Agency had committed itself to a study of the use and purposes of the Peace Corps readjustment allowances and VISTA stipend, to be submitted to the appropriate Committees of the Congress not later than September 1, 1974.

But, Mr. President, the Agency never submitted the official results of such a study to the Congress. It did, however, share with me, upon my request, an unofficial and unapproved study, dated August 13, 1974, and carried out by agency employees on an internation operations planning group evaluation, of the Peace Corps readjustment allowance, which recommended the need not only for an increased allowance, but for a tax-exempted one as well.

Mr. President, Peace Corps volunteers have been receiving the same readjustment allowance—a small amount of money set aside for them each month to be used at the end of their service for readjustment purposes—for the past 14 years. It amounts to $75 per month and it is subject to social security, Federal and State income taxes. VISTA volunteers have been receiving the same readjustment allowance, or stipend, since that program was initiated 11 years ago—it amounts to $50 per month and it too is subject to social security, Federal, and State income taxes.

During the last 11 to 14 years, Mr. President, the Consumer Price Index has risen between 60 percent and 75 percent.

We feel that it is time—indeed it is long past time—to recognize the enor-

mous contribution of the individuals who serve in these programs, and provide them with a realistic and equitable increase in their end-of-service allowances.

However, Mr. President, we do not want to do so at the expense of the number of volunteers coming into the program. For this reason, we have drafted our bill in such a way that any increases will be made expressly contingent upon, and only to the extent of, the inclusion of specific funding for such purposes in appropriations acts.

Our bill, Mr. President, with respect to Peace Corps volunteers, would allow for an increase in allowance up to $115 per month for a single volunteer, up to $190 per month for a volunteer with minor children, and up to $190 per month for volunteer leaders. With respect to VISTA volunteers, it would allow for an increase in the stipend of up to $75 per month for individual volunteers and up to $115 per month for volunteer leaders. Again let me stress that our bill would have no programmatic or budgetary impact on either of these programs without further legislative action by the Congress in the course of its consideration of appropriation acts.

Mr. President, I have long been a strong supporter of the Peace Corps and VISTA programs. I served as a consultant program evaluator for the Peace Corps in the mid-sixties. I now serve as chairman of the Labor and Public Welfare Committee's Special Subcommittee on Human Resources which has jurisdiction over the Domestic Volunteer programs, including VISTA. These are extremely beneficial and effective programs, Mr. President, and the individuals serving in them as volunteers are a credit to our Nation. We owe them our encouragement and support. And we owe them a decent sum to enable them to ease their readjustment when they return home from their tours of volunteer service.

Mr. President, I ask unanimous consent that the full text of 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. 1789

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 "Volunteer End-of-Service Allowance Increase Act of 1975".

SEC. 2. (a) Section 105(a)(1) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955(a)(1)) is amended by striking out "$50" and "$75" and inserting in lieu thereof "$75" and "$115", respectively.

(b) There are authorized to be appropriated in addition to the sums authorized to be appropriated pursuant to section 501 of such Act, such additional sums as may be necessary to carry out the amendments made by subsection (a) of this section. Such amendments are to be effective for each fiscal year only to such extent and for such amounts as are specifically provided for such purpose in such appropriation Acts.

SEC. 3. (a) Section 5(c) of the Peace Corps Act (22 U.S.C. 2504(c)) is amended by striking out "$75" and "$125" and inserting in lieu thereof "$115" and "$190", respectively.

(b) Section 6(*1*) of such Act (22 U.S.C. 2505(*1*)) is amended by striking out "$125" and inserting in lieu thereof "$190".

(c) There are authorized to be appropriated such additional sums as may be necessary to carry out the amendments made by subsections (a) and (b) of this section. Such amendments are to be effective for any fiscal year only to such extent and in such amounts as are specifically provided for such purpose in appropriation Acts.

Mr. MONDALE. Mr. President, in 1961, the Congress of the United States passed, and President Kennedy signed into law, the Peace Corps Act. As stated in the opening section of the act, the purpose of the legislation was:

To promote world peace and friendship through a Peace Corps, which shall make available to interested countries and areas men and women of the United States qualified for service abroad and willing to serve, under conditions of hardship if necessary, to help the peoples of such countries and areas in meeting their needs for trained manpower, and to help promote a better understanding of the American people on the part of the peoples served and a better understanding of other peoples on the part of the American people. 22 U.S.C. 2501.

Men and women who become Peace Corps volunteers are not paid a salary. Rather, the act specifies that, during their terms of service to the Corps, they shall only be provided with "such living, travel, and leave allowances, and such housing, transportation, supplies, equipment, subsistence, and clothing as the President may determine to be necessary for their maintenance and to insure their health and their capacity to serve effectively"—22 U.S.C. 2504(b).

Because of the absence of a salary, the Peace Corps volunteer is faced with serious problems when he or she terminates affiliation with the Corps. After 2 years of Peace Corps service, the volunteer returns to the United States faced with the necessity of finding a job, finding a place to live, sometimes returning to school, and readjusting to life in this country. He often has little or no money with which to accomplish his readjustment, because he has not received a salary for a period of 2 years. Thus, the volunteer who is, according to the act's declaration of purpose, returning from "conditions of hardship" in many cases, is forced to face even greater hardships upon his return to the United States.

Recognizing this problem, the Peace Corps Act provides for a "readjustment allowance" for volunteers. Under U.S.C. 2504(c), volunteers are entitled to receive an allowance at the rate of $75 for each month of satisfactory service. Volunteers who have one or more minor children at the time of entering preenrollment training receive an allowance at the rate of $125 per month for one parent. Supervisory personnel, called "volunteer leaders" by the art, are entitled to receive a readjustment allowance of $125 per month—22 U.S.C. 2505(1). The allowances are payable, except under special circumstances, on the return of the volunteer to the United States.

It is this readjustment allowance—totaling only $900 per year for volunteers and only $1,500 per year for one parent of a minor child and volunteer leaders—that the returning volunteer must use to facilitate his return to American society. Not only is the allowance pitifully low, it is also subject to social security taxes, subject to Federal income taxes, subject to State income taxes. Moreover, it does not accrue interest during the time of service. In short, by the time the volunteer uses his allowance to pay life and accident insurance premiums, educational loan payments, organization dues, support for dependents in the United States, and other necessary expenses during his term of service, little if anything is left to ease his readjustment to American life.

The volunteer returns to the United States in need of a job, a place to live, and clothing. Many returning volunteers wish to return to school and must go through the lengthy admissions process. The volunteer does not receive Federal or State unemployment insurance benefits and is not entitled to veterans' benefits. At the same time the volunteer is experiencing a period of economic stress, he is frequently undergoing a "cultural shock" as well. The readjustment allowance—or what is left of it—is of little help.

In 1961, the allowance was set at $75 per month on the basis of Congress assessment of the needs of the volunteer in 1961. Commonsense tells us that the 1961 level, which has never been changed, is insufficient as a 1975 level. Since the passage of the Peace Corps Act, and the establishment of the $75-level readjustment allowance, the Consumer Price Index has risen more than 75 percent. This index serves as a useful guide to the cost of living in this Nation, and it is this index to which we should look to measure he needs of the returning Peace Corps volunteer.

The Peace Corps volunteer serves his country in an honorable way. In addition, the volunteer makes a significant contribution to world peace and understanding. His service is accomplished in what are often primitive and difficult living conditions. Yet the hardships are accepted without complaint by the volunteer. We should not, we must not, subject the returning volunteer to additional hardship. We owe the volunteer better.

Accordingly, I am proud to join with the distinguished Senator from California (Mr. CRANSTON) in introducing legislation to increase the Peace Corps readjustment allowance. The legislation increases the allowance for volunteers to $115 per month; for volunteers with minor children to $190 per month; and for volunteer leaders to $190 per month.

This bill is similar to legislation which I introduced nearly 2 years ago. The need that existed at that time is even greater today.

The bill also makes appropriate upward adjustments in the allowance for VISTA volunteers. These volunteers also perform a necessary and important service. It is fitting that their situation also be reevaluated at this time. Senator CRANSTON has taken that lead with respect to the domestic volunteers, and I am proud to again join him in his efforts.

Mr. President, I sincerely hope that the Congress will act favorably on this important legislation during the 94th Congress. I congratulate my distinguished colleague from California (Mr. CRANSTON) on his work in this regard and ask my other colleagues to act favorably on this important legislation.

Mr. CRANSTON subsequently said: Mr. President, I ask unanimous consent that a bill that I introduced earlier today relating to the Peace Corps in action be jointly referred to the Labor Committee and the Committee on Foreign Relations.

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

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 80

At the request of Mr. MATHIAS, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 80, a bill to prevent the estate tax law from operating to encourage or to require the destruction of open lands and historic places, by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open land and forms part of an estate may be valued, for estate tax purposes, at its value as farmland, woodland, or open land—rather than at its fair market value—and to provide that real property which is listed on the National Register of Historic Places may be valued, for estate tax purposes, at its value for its existing use, and to provide for the revocation of such lower valuation and recapture of unpaid taxes with interest in appropriate circumstances.

S. 193

At the request of Mr. WILLIAMS, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 193, the Anti-Dog-Fighting Act.

S. 306

At the request of Mr. GRAVEL, the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. CLARK), and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 306, a bill to abolish the airline mutual aid pact.

S. 408

At the request of Mr. BROOKE, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 408, a bill to repeal exemptions in the antitrust laws relating to fair trade laws.

S. 1216

At the request of Mr. TALMADGE, the Senator from Utah (Mr. GARN), the Senator from North Carolina (Mr. MORGAN), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Nebraska (Mr. HRUSKA) were added as cosponsors of S. 1216, a bill to amend the Federal Water Pollution Control Act.

S. 1235

At the request of Mr. MCCLURE, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1235, providing for the abolishment of the Interstate Commerce Commission.

S. 1623

At the request of Mr. MANSFIELD, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1623, a bill to direct the Secretary of Labor to change the name of the Wholesale Price Index to the Basic Price Index.

S. 1625

At the request of Mr. PACKWOOD, the Senator from Wyoming (Mr. HANSEN) and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 1625, a bill to extend and revise the State and Local Fiscal Assistance Act of 1972.

S. 1691

At the request of Mr. TAFT, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1691, a bill to amend the Internal Revenue Code of 1954 to relieve employers of 50 or less employees from the requirement of paying or depositing certain employment taxes more often than once each quarter.

SENATE RESOLUTION 152

At the request of Mr. DOLE, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of Senate Resolution 152, a resolution requiring all standing committees of the Senate (other than the Committees on Appropriations and the Budget) to conduct special oversight activities relating to their areas of jurisdiction and to report to the Senate thereon no later than December 31, 1975.

SENATE RESOLUTION 158

At the request of Mr. PACKWOOD, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of Senate Resolution 158, a resolution to clarify the individual income tax rebates.

SENATE RESOLUTION 161—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. BUCKLEY submitted the following resolution:

S. RES. 161

Resolved, That the bill (S. 1771) entitled "A bill for the relief of Branka Mardessich and Sonia S. Silvani", together with all accompanying papers, is hereby referred to the Chief Commissioner of the Court of Claims pursuant to sections 1492 and 2509 of title 28, United States Code, for further proceedings in accordance with applicable law.

SENATE RESOLUTION 162—SUBMISSION OF A RESOLUTION CONCERNING THE SPECIAL SESSION OF THE U.N. GENERAL ASSEMBLY

(Referred to the Committee on Foreign Relations.)

Mr. KENNEDY submitted the following resolution:

S. RES. 162

Resolved,

Whereas, it is increasingly evident that the institutions and practices which evolved after World War II for managing the international economy are no longer adequate to the needs of many nations, including the United States;

Whereas, the Declaration and Program of Action on the New International Economic Order, adopted by the General Assembly of the United Nations in 1974, holds as a fundamental purpose the establishment of the new international economic order based on the principles of equity, sovereign equality, interdependence, common interest and cooperation among all States, irrespective of their economic or social systems;

Whereas, the rapid and sustained economic growth of the past three decades in the Industrialized and Developing World, plus other developments, have placed growing demands on the world's resources, leading towards a global and interdependent economy in which no nation can remain unaffected by events in other parts of the world;

Whereas, the Cocoyoc Declaration affirms that: "In a sense, a new economic order is already struggling to be born. The crisis of the old system can also be the opportunity of the new";

Whereas, the preservation of growth and dynamism in the global economy is dependent on the willingness and ability of all nations to avoid a reckless, divisive, economic conflict pitting the Developed World against the Developing World;

Whereas, the General Assembly of the United Nations has called for a Special Session on Development and International Economic Relations, to be held in September 1975; Therefore, be it *Resolved* that;

It is the Sense of the Senate that:

(1) the Government of the United States should make every effort to present proposals which recognize the magnitude of the changes required in the structure and character of the global economy; and which recognize the need to develop during the next few years a new global economic agreement drawing together economic needs and interests of many countries and;

(2) That to the greatest degree possible, the Secretary of State should consult with the Congress, in preparing proposals for the Seventh Special Session of the United Nations General Assembly on Development; and

(3) That the Secretary of the Senate is directed to transmit copies of this resolution to the President and to the Secretary of State.

Mr. KENNEDY. Mr. President, I am today submitting a resolution, calling on the administration to come forward with positive positions and prosposals which recognize the need to develop a new global economic compact, drawing together the economic needs and interests of many countries.

Specifically the resolution also requests the Secretary of State, to consult with the Congress to the greatest degree possible, in the preparation of proposals and positions for the seventh special session of the United Nations General Assembly on Development, in September 1975.

During recent weeks, our Nation has been preoccupied with events in Indochina. Yet now as that conflict ends, we can turn our attention elsewhere. For the first time in living memory we are looking toward a time when the great issues are not primarily those that concern the risks of war between the great powers of the world. Yet even this does not mean peace among nations and peoples: As President Kenneth Kaunde has reminded us:

The absence of war does not necesarily mean peace. Peace, as you know, dear brothers and sisters, is something much deeper, much deeper than that.

Nor does peace mean only absence of military conflict. It is critical in other realms as well. Today, the attention of the United States is turning increasingly to a set of dangers and difficulties in another area—that of the global economy. In this concern we are joined by virtually all other nations of the world—great and small, rich and poor. For it is clear to all that the structure of the global economy, set forth for most of the world at Bretton Woods and Havana at the end of the Second World War, is no longer adequate to meet the needs that lie ahead.

The rich, industrial nations of the world must find new ways of effectively managing their economic relations with one another. The developing nations—both those with newly won wealth and economic power, and those which have made dramatic, sustained progress in modernizing their economies—must have greater influence in making rules for the world economy. And today's true have-not nations and peoples need greater help and cooperation from all others in the world community.

From the centers of great economic power, to the poorest village in Asia, Africa, or Latin America, there is a crying need to make the global economic system work increasingly for all—in ways that combine efficiency with compassion and equity.

Here in the United States—and elsewhere in the industrial world—we hear the new demands made by nations and peoples of the developing world. We hear voices raised here at the United Nations—and in other international meetings—demanding a fairer distribution of the earth's bounty. And we must respond.

There are some who choose to ignore these concerns; who are offended by loud demands; who prefer that the United Nations place decorum and civility above honest debate and a clear expression of national views; who prefer a counteroffensive in style without meeting the needs of substance.

I do not agree with that view. I believe that the world's developing countries are right in using the United Nations to express their interests and demands. This is consistent with the highest purposes which delegates sought to achieve when they gathered in San Francisco to create a United Nations just three decades ago.

For it is only in the clash of ideas, in full and free debate, that nations assembled in this great institution can begin to understand one another—can begin to work together on shaping their common destiny. This need not be a threat to the UN system; nor a tyranny of the majority—provided we use the UN system as the charter provides, as an instrument "to harmonize the actions of nations" provided that we not only air differences, but also seek agreed solutions in common. For rhetoric, however valuable, is no substitute for hard thought and concrete action.

Most important, the UN gives us a chance—our only chance—for rich and poor to meet together in a common forum. And what happens here no nation can ignore.

As Secretary of State Kissinger said on Tuesday, May 13, 1975:

The poorer countries can gain a sense of responsibility and participation only from the sense that their concerns are taken seriously.

We in the industrial world can and must listen to what is being said by others. We must not join in a dialog of the deaf; but join with others in finding common means to solve common problems.

Today, we in the West are confronted with the reality of new economic power—and a greater measure of organization to assert that power—in countries once poor and powerless. There is also real and increasing interdependence of nations—in food, fuel, fertilizer, and other raw materials, investment, the environment, and the law of the seas.

We are in this together; and our fortunes together will be largely determined by our wisdom, and foresight at this moment. Even the United States cannot act in ignorance of, or isolation from, the rest of the world.

Can we be wise enough to see that all nations will lose in a reckless, divisive, economic conflict that pits nation against nation—the North against the South? Will we have the foresight to understand that at bottom we are not enemies of one another to understand that in building on opportunities we all can gain, we all can help make this planet a decent and hospitable place to live?

I believe we can turn away from conflict, and face these problems together. I believe we can work towards new global economic compact, drawing together seemingly conflicting economic needs and interests and converting them into mutual advantage.

Rich countries as well as poor stand to gain from these efforts—from new global economic agreement. What together we can achieve in restructuring world economy will also aid the internal economic policies of rich countries, providing greater stability, predictability, and confidence in the future. It can help generate new investments and new jobs. It can help solve the curse of inflation.

Mr. President, for these reasons, I believe the United States should take a constructive approach to the forthcoming seventh special session of the UN General Assembly. It is to this end that I submit this resolution today.

SENATE RESOLUTION 163—SUBMISSION OF A RESOLUTION CALLING ON THE PRESIDENT TO PROMOTE NEGOTIATIONS FOR A TEST BAN TREATY

(Referred to the Committee on Foreign Relations.)

Mr. KENNEDY (for himself, Mr. MATHIAS, Mr. PHILIP A. HART, Mr. MUSKIE, Mr. HUMPHREY, Mr. CASE, Mr. CRANSTON, Mr. ABOUREZK, Mr. BAYH, Mr. BIDEN, Mr. BROOKE, Mr. CHURCH, Mr. CLARK, Mr. GRAVEL, Mr. HARTKE, Mr. HASKELL, Mr. HATFIELD, Mr. HATHAWAY, Mr. JAVITS, Mr. MAGNUSON, Mr. MCGEE, Mr. MCGOVERN, Mr. MONDALE, Mr. NELSON, Mr. PROXMIRE, Mr. STEVENSON, and Mr. WILLIAMS) submitted the following resolution:

S. RES. 163

Whereas the United States is committed in the Partial Test Ban Treaty of 1963 and the Nonproliferation of Nuclear Weapons Treaty of 1968 to negotiate a Comprehensive Test Ban Treaty;

Whereas the conclusion of a Comprehensive Test Ban Treaty will reinforce the Nonproliferation of Nuclear Weapons Treaty, and will fulfill our pledge in the Partial Test Ban Treaty;

Whereas there has been significant progress in the detection and identification of underground nuclear tests by seismological and other means; and

Whereas the SALT accords of 1972 placed quantitative limitations on offensive and defensive strategic weapons, and established important precedents for arms control verification procedures;

Whereas early achievement of total nuclear test cessation would have many beneficial consequences: creating a more favorable international arms control climate; imposing further finite limits on the nuclear arms race; releasing resources for domestic needs; protecting our environment from growing testing dangers; making more stable existing arms limitations agreements; and complementing the post-Vladivostok strategic arms limitation talks; and

Whereas a Comprehensive Test Ban would achieve these goals far better than a Threshold Test Ban; Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States (1) should propose an immediate suspension on underground nuclear testing to remain in effect so long as the Soviet Union abstains from underground testing, and (2) should set forth promptly a new proposal to the Government of the Union of Soviet Socialist Republics and other nations for a permanent treaty to ban all nuclear tests.

Mr. KENNEDY. Mr. President, I am pleased to submit once again a Senate resolution for myself, Senators CHARLES MCC. MATHIAS, JR., PHILIP A. HART, EDMUND S. MUSKIE, CLIFFORD P. CASE, HUBERT H. HUMPHREY, ALAN CRANSTON, and more than 15 other Senators to press the administration to seek a permanent ban on underground nuclear testing.

This resolution continues the effort to achieve the long-delayed next step in arms control—a Comprehensive Test Ban Treaty—CTB—a position to which we first committed ourselves in the Partial Test Ban Treaty of 1963, 12 years ago.

In the previous Congress, 36 Senators cosponsored a similar measure, Senate Resolution 67. That resolution also was approved by a 14 to 3 vote of the Senate Foreign Relations Committee.

Secretary of State Kissinger today is meeting with Soviet Foreign Minister Andrei Gromyko in discussions of arms negotiations. At the end of the summer, President Ford is expected to meet with Soviet General Secretary Brezhnev. The Nonproliferation Treaty Review Conference also is underway in Geneva.

We believe that this is the moment for the administration to take a new look at the oldest item on the arms control agenda and to propose, first an immediate mutual suspension on testing; and second, a new proposal for a permanent treaty to ban all nuclear tests.

We believe a CTB is far more in our

interest than the proposed threshhold agreement, an agreement which is set so high—150 kilotons—that it seems to have been drafted by arms developers rather than arms controllers.

These are among the advantages I see in a Comprehensive Test Ban Treaty:

First, a Comprehensive Test Ban Treaty would complement the agreements reached at SALT I, far more than a threshhold limit, by making it more difficult for either superpower to make major qualitative improvements in their nuclear arsenals. If all testing were stopped, at least this would dampen fears on either side that the other would gain a high degree of confidence in some new generation of first-strike weapons.

Second, there is the matter of political will itself. The atmosphere surrounding both détente and the possibilities for arms control would be helped if this important arms control goal could be achieved. I believe that promoting that atmosphere, so hard won, is particularly important at this time, when there is widespread questioning in the United States—and apparently in the Soviet Union, as well—about the real basis for improved Soviet-American relations. In addition to its own merits, therefore, a CTB would demonstrate that the United States and the Soviet Union are both still committed to real limits on arms. In fact, it might hasten a breakthrough at SALT II on revising the interim agreement.

This reasoning may explain the strong support for a CTB which Soviet leaders expressed to me during my trip to Moscow a year ago, support reaffirmed in a public statement by General Secretary Brezhnev last October.

Third, a comprehensive test ban would reinforce the Nonproliferation Treaty, which is now under review. Many nonnuclear nations have branded the NPT as unfair to them. They have given up nuclear weapons, along with whatever political and mliitary benefits these weapons seem to confer, while the superpowers forge ahead in their own arms race.

A CTB would be a major indicator of the good faith of the major powers, if they are determined to prevent the spread of nuclear weapons. Such a demonstration of good faith is particularly important now that India has become the sixth power to explode a nuclear device. Will there be more? In part, the answer to this question will depend on what the superpowers do to show restraint—whether or not India, China, or other countries continue to test.

The continuation of underground testing also weakens the efforts of the United States and Soviet Union to bring France and China into real discussions on arms control. A CTB on its own would not prevent proliferation or lead to broader arms control talks; but it could be a significant step on the way.

Finally, a CTB would permit some savings in the nuclear weapons programs of both superpowers, to be applied to other uses, and end the remaining environmental hazards from underground testing. While such hazards are not the overriding reason for banning all tests, about one-fifth of our tests have vented, sending radioactive particles into the air. In addition, the side effects of massive explosions deep within the Earth's crusts are still not fully known—as concluded by the Pitzer panel, appointed by the President's Office of Science and Technology.

Many of these arguments for a Comprehensive Test Ban Treaty were reflected in talks I had with Soviet leaders in Moscow last April. In these talks, they shifted their position on an important point. They are no longer insisting that France and China join a CTB at the outset. Rather they are prepared to reach agreement with us now, and then seek the support of other nations. To be sure, Soviet leaders told me they want an escape clause, in the event that France and China do not respond. However, such clauses have become standard in most arms control agreements. They protect all parties against unforeseen circumstances. And it is important for us not to allow a CTB to be used as a weapon in the diplomatic conflict between the Soviet Union and China. But Soviet leaders also agreed that a CTB could be an important step forward, symbolizing our shared concern to limit the race in nuclear arms.

There are several questions that have been raised concerning the desirability of a comprehensive nuclear test ban treaty.

First, the question of a need for further testing seems more unreal with each passing day. We now have some 8,000 strategic nuclear weapons and another 22,000 tactical nuclear weapons.

Our strategic forces are fully capable of providing deterrence against any Soviet threat far into the future. We have 1,054 U.S. Minuteman and Titan land-based missiles, 656 Polaris/Poseidon missiles on 41 ballistic missile submarines and some 500 long-range bombers.

Beyond these impressive numbers, our production of strategic nuclear weapons has continued unabated during the past several years, and according to a recent report of the Center for Defense Information, we will ultimately have some 21,000 strategic nuclear weapons.

Our tactical nuclear needs are adequately met as well by the 22,000 weapons spread across the world, in Europe, in Asia, in the United States and aboard our combat ships.

Clearly, if one argues that our nuclear stockpile might be refined and improved by experimenting with and perhaps deploying new warheads, we are talking about fairly minor refinements which pale beside the significance of this major cap on the qualitative side of the arms race.

A second question traditionally raised relates to verification. However, a Comprehensive Test Ban Treaty today can be negotiated with far greater confidence in our ability to detect violators without onsite inspections than our proposed seven onsite inspections would have provided over a decade ago. We have upgraded not only our seismographic capabilities but also our aerial photography through the use of satellites and other advanced intelligence gathering methods.

Also, we have the precedent of the verification procedure established under the ABM Treaty and SALT I on which to base our actions. In addition, the Soviet Union specifically has agreed to cooperate in the area of seismic research and development. Its agreement to a threshold limit already includes substantial advances in verification procedures which would be even more effective in the verification of a CTB.

Finally, the issue of peaceful nuclear explosions is one which is raised as an obstacle to a CTB, just as it has prevented the conclusion of a threshhold agreement. Yet, from previous statements of Soviet leaders, it would seem that the mutual advantage of a permanent treaty to ban all tests could well be sufficient incentive for them to yield on this issue or to agree to a totally international control and conduct of peaceful explosions.

The time for restraining the qualitative arms race is now. The advantages seem clear. The capability exists. What we need now is the political will to achieve a lasting agreement to halt all nuclear testing. This resolution is an effort to express that will. We hope that it is an encouragement to the President and the administration to direct their aim toward achieving a comprehensive Test Ban Treaty as a matter of high national priority.

Mr. President, I ask unanimous consent that an article in the Defense Monitor of the Center for Defense Information be printed in the RECORD.

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

SOME 22,000 TACTICAL AND 8,000 STRATEGIC: 30,000 U.S. NUCLEAR WEAPONS

The United States has nearly 30,000 nuclear weapons at home, at sea, in Europe, and in Asia. 8,000 of these weapons are considered strategic weapons. 22,000 are considered tactical weapons. The main difference between strategic and tactical nuclear weapons is the difference in range. Tactical nuclear weapons have a shorter range but are sometimes more powerful than strategic weapons.

The 8,000* U.S. strategic nuclear weapons are on (1) the 1,054 U.S. Minuteman and Titan land-based missiles, (2) the 656 Polaris/Poseidon missiles on the 41 U.S. ballistic missile submarines, and (3) the nearly 500 U.S. SAC bombers. The U.S. has been producing strategic nuclear weapons at the rate of three per day for the past four years, and the total promises to grow to about 21,000 U.S. strategic nuclear weapons under the limits set by the November 1974 U.S.-Soviet Vladivostok Agreement.

Less publicized and understood is the fact that nearly 22,000 U.S. *tactical* nuclear weapons are in position worldwide. 7,000 U.S. tactical nuclear weapons are on land in Europe. Approximately 1,700 are located on land in Asia. 2,500 tactical nuclear weapons (as well as 4,500 strategic nuclear weapons) are estimated to be aboard U.S. Navy combat ships. The remainder, approximately 10,800 tactical nuclear weapons, are assigned to U.S. bases and forces in the United States.

*U.S. will have 8,500 strategic weapons by mid-1975.

U.S. tactical nuclear weapons widely dispersed

Europe	7,000
Atlantic Fleet (U.S. Navy)	1,000
Asia	1,700
Pacific Fleet (U.S. Navy)	1,500
United States	10,800
Total U.S. tactical nuclear weapons	22,000

ABOUT 7,000 TACTICAL NUCLEAR WEAPONS IN EUROPE

In Europe the U.S. and its NATO allies have 2250 aircraft, missile launchers, and nuclear cannons that can deliver 7000 U.S. carry a combined explosive capability equivalent to an estimated 460,000,000 tons of TNT—roughly 35,000 times greater than the nuclear weapon that destroyed Hiroshima in 1945. These U.S. tactical nuclear weapons are in all NATO European states with the exception of Norway, Denmark, Luxembourg, and France. France maintains its own tactical nuclear weapons in France and Germany. U.S. nuclear forces in Europe are most heavily concentrated in West Germany where 207,000 U.S. military personnel are based.

U.S. tactical nuclear weapons in Europe include at least four different kinds of surface-to-surface missiles (Lance, Sergeant, Honest John, and Pershing), two sizes of nuclear artillery shells (155 mm and 203 mm), and over 500 U.S. nuclear capable fighter-bombers. The aircraft can be loaded with air-to-surface missiles or four different sizes of bombs or a combination of missiles and bombs. The largest tactical nuclear missile has over 400 kilotons in explosive power, equivalent to over 30 "Hiroshimas". Forward-based systems such as the Pershing surface-to-surface missile or the nuclear-loaded aircraft are capable of attacking targets inside the Soviet Union from Western Europe.

UNITED STATES HAS 2-TO-1 ADVANTAGE IN EUROPE

The first U.S. tactical nuclear weapons were introduced in Europe in 1954, three years before the Soviet Union. Since that time the U.S. arsenal has grown dramatically and has undergone extensive changes as new U.S. tactical nuclear weapons replaced older ones. Soviet tactical nuclear deployment has been later, slower, and shows little weapon turnover. Soviet weapons in Europe have accumulated without much retirement of earlier weapons. This resembles the pattern of their deployment of strategic nuclear weapons.

Still, there are two U.S. tactical nuclear weapons for each Soviet tactical nuclear weapon in Europe. Altogether U.S. forces in Europe have 7000 tactical nuclear weapons to 3000 to 3500 for Soviet military forces in Europe.

The U.S. armed forces deployed nuclear weapons to Europe in the early 1950's to offset numerical superior Soviet forces in Central Europe. At the time the Eisenhower administration was seeking to check Soviet manpower advantages through a strategic policy which threatened "massive retaliation" and U.S. tactical nuclear weapons in Europe were part of that policy. When the U.S. first placed tactical nuclear weapons in Europe the Soviets had no tactical nuclear weapons. By the late 1950's the U.S. monopoly on tactical nuclear weapons was ended.

ABOUT 1,700 U.S. TACTICAL NUCLEAR WEAPONS IN ASIA

Far less information has been released to the public by the Pentagon about the estimated 1700 tactical nuclear weapons that the U.S. maintains on land in Asia. U.S. tactical nuclear weapons are in Korea and the Philippines as well as at U.S. installations on Guam and Midway. Most of these weapons are for U.S. fighter-bombers, except in the Republic of Korea where Army and Air Force tactical nuclear weapons are based.

THOUSANDS OF U.S. NUCLEAR WEAPONS AT SEA

The U.S. today has approximately 7000 strategic and tactical nuclear weapons at sea. There are 284 ships and submarines in the U.S. Navy that can carry nuclear weapons. In 1965, only 38 percent of U.S. ships could carry nuclear weapons. Today, 56 percent are nuclear capable and the percentage is increasing each year.

The U.S. Navy is capable of delivering up to 12,000 tactical nuclear weapons in bombs, depth charges, torpedoes, and missiles. Many of these are capable of carrying both conventional and nuclear explosives. Center for Defense Information estimates place the number of U.S. tactical nuclear weapons at sea at 2500*. This number of weapons carries an explosive punch equivalent to 150 million tons of TNT, more than 75 times the amount of explosives dropped from 1941 to 1945 on Germany and Japan by U.S. bombers. Over 90 percent of this nuclear destructive power is found in the 1400 tactical nuclear weapons aboard 14 U.S. attack aircraft carriers.

NEARLY 15,000 NUCLEAR WEAPONS IN UNITED STATES

An estimated 14,800 U.S. nuclear weapons are kept in the United States. 4000 strategic nuclear weapons are deployed at U.S. Minuteman and Titan missile sites and at SAC bomber bases. An additional 10,800 U.S. tactical nuclear weapons are estimated to be in the custody of U.S. forces in the U.S. The seven Army divisions on active duty in the U.S. have the full spectrum of tactical nuclear weapons. Stateside Navy and Air Force units also have a full complement of tactical nuclear weapons. Thousands more are stockpiled at U.S. storage facilities.

TACTICAL NUCLEAR WEAPONS IN SEARCH OF A DOCTRINE

According to Secretary of Defense James Schlesinger, the U.S. deploys nuclear weapons to Europe to: (1) deter Soviet use of tactical nuclear weapons and Warsaw Pact attacks, and (2) to provide a nuclear option short of all-out war should deterrence fail and our conventional defenses collapse. As Morton Halperin, former Deputy Assistant Secretary of Defense, recently put it, "The NATO doctrine is that we will fight with conventional forces until we are losing, then we fight with tactical nuclear weapons until we are losing, and then we will blow up the world."

No one yet has been able to devise any reasonable set of scenarios for the use of our Europen-based tactical nuclear weapons. Defense Secretary Schlesinger had admitted to continuing to search unsuccessfully for a doctrine whereby tactical nuclear weapons could be confidentially used without triggering all-out war. That is likely to be a fruitless search. It is a Center conclusion that *there is no rational doctrine for the use of the U.S. land-based tactical nuclear weapons in Europe and Asia.*

Defending allies by destroying them

Something is wrong with a strategy which, if implemented, would destroy the country it is designed to defend. The use of 10 percent of the 7000 U.S. tactical nuclear weapons in Europe would destroy the entire area where such massive nuclear exchanges occurred. War games practiced by NATO troops indicate the tremendous collateral damage that would be inflicted upon cities and people bordering the battle area. A NATO war game named Carte Blanche was run for 48 hours during which 335 tactical nuclear weapon explosions were simulated, 268 on German territory. A very conservative estimate placed Germans killed at between 1.5 and 1.7 million plus an additional 3.5 million wounded. In the six years of World War II 305,000 Germans were killed and 780,000 were wounded. Thus a very limited tactical nuclear war would produce over five times as many German casualties in two days as occurred in the entire Second World War.

A similar NATO war game, Operation Sagebrush, simulated the use of 275 tactical nuclear weapons that ranged in yield from 2 to 40 kilotons. According to the evaluation of the exercise, "the destruction was so great that no such thing as limited nuclear war was possible in such an area." Former Assistant Secretary of Defense Alain Enthoven, in testimony before the Senate Foreign Relations Committee, quoted a Defense Department report on war games conducted in Europe in the 1960's as saying that:

"Even under the most favorable assumptions about restraint and limitations in yields and targets, between 2 and 20 million Europeans would be killed in a limited tactical nuclear war . . . and a high risk of 100 million dead if the war escalated to attacks on cities."

Any nuclear war likely to be total

Once the nuclear threshold has been broken, it is highly likely that the nuclear exchanges would escalate. Radio, radar, and other communications would be disrupted or cut. The pressures to destroy the adversary's nuclear forces before they land a killing blow would lead to preemptive attacks. In the confusion, subtle peacetime distinctions between lower level tactical nuclear war and higher level tactical nuclear war, and all-out spasm nuclear war would vanish. Once the threshold is crossed from conventional warfare to nuclear warfare, the clearest "firebreak" on the path to complete nuclear holocaust will have been crossed.

Small weapons trigger big ones

One risk of developing tactical nuclear weapons, especially those now euphemistically called "mini-nukes", is that they may create the illusion that a limited nuclear war can be fought. Small weapons such as the 155mm nuclear artillery projectiles have already been introduced. The trend is for more of the same. As smaller, "cleaner", and more accurate tactical nuclear weapons are added to the U.S. arsenal, they will add to the dangerous illusion that tactical nuclear weapons can be used with no risk of escalation.

This overlooks two factors. First, the U.S. tactical nuclear arsenal is still loaded with large "Hiroshima-size" weapons. Second, the Soviet Union would respond massively to U.S. nuclear attacks. Even if all larger U.S. tactical nuclear weapons were replaced by new "mini-nukes", using them would trigger the older, bigger, and "dirtier" Soviet weapons with the same consequences for persons living in the area and the same resultant escalation.

The idea of a limited war is an illusion. However, it may encourage policy-makers to be more reckless and make nuclear war, especially during acute crises, more likely.

DEFENSE MONITOR IN BRIEF

The United States has 30,000 nuclear weapons in Europe, Asia, the United States and at sea. Eight thousand of those are strategic nuclear weapons; 22,000 are tactical nuclear weapons.

There are 7,000 nuclear weapons aboard U.S. Navy ships and submarines. 4,500 are strategic weapons on nuclear missile submarines. 2,500 are short-range tactical nuclear weapons; 1,400 of these are aboard U.S. aircraft carriers.

There is no coherent doctrine for using land-based tactical nuclear weapons. Tacti-

*This is a conservative estimate. The maximum loading of nuclear weapons would result in a number four times larger than the Center estimate. SUBROC (a rocket propelled nuclear torpedo) is assumed to be loaded one-third nuclear, two-thirds conventional. All other U.S. Navy tactical nuclear weapons are assumed to be one-quarter nuclear loaded and three-quarters conventional.

cal nuclear weapons create an impossible command and control problem and they invite pre-emptive nuclear strikes by an enemy. If tactical nuclear weapons were used in a war abroad the likely result would be the destruction of the country in which they were used.

The very presence of tactical nuclear weapons abroad creates a dangerous situation for the United States. The likelihood is great that an exchange of tactical nuclear weapons would escalate into a full-scale nuclear war.

The dispersion of so many tactical nuclear weapons around the world greatly increases the danger of theft, terrorism, and accidents.

Most land-based U.S. tactical nuclear weapons in Europe should be removed. All land-based tactical nuclear weapons in Asia should be removed. All nuclear bombs and nuclear air-to-surface weapons aboard U.S. aircraft carriers should be removed. The safety and security of U.S. citizens would be enhanced by such a move.

The excessive secrecy surrounding tactical nuclear weapons hinders oversight by Congress and is unnecessary to preserve U.S. security. A national debate on U.S. tactical nuclear weapons is in the public interest.

AWESOME TACTICAL NUCLEAR ARSENAL IN EUROPE

Senator Stuart Symington, March 7, 1974: "The significance of our nuclear weapons stockpile in Europe, only in Europe, becomes all too apparent when one realizes that the destructive force, in TNT equivalent, of the nuclear weapons we have currently stockpiled alone is more than 20 times that of the combined total force of all the air ordnance expended in World War II, the Korean war and the war in Vietnam."

AMENDMENTS SUBMITTED FOR PRINTING

FOOD STAMP ACT AMENDMENTS—S. 1662

AMENDMENT NO. 485

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

Mr. TAFT. Mr. President, today I am submitting an amendment in the nature of a substitute to S. 1662, a bill to extend for 12 months the present rules governing food stamp eligibility for SSI recipients.

If Congress passes this legislation, it will be the second consecutive 12-month extension of the status quo. Instead of leaving the resolution of SSI recipients' food stamp eligibility in doubt once again and allowing additional families access to the food stamp roles even though Congress may decide to remove then in several months, I believe it would be preferable to arrive at a permanent solution as promptly as possible.

I think virtually everyone agrees that permanent legislation to resolve this problem is necessary. If the "temporary" period in which the status quo is effective were ever allowed to expire, the onerous provisions of Public Law 93-86 would become effective. By mandating that only those whose December 1973, combined welfare and bonus value of food stamp levels exceed their present SSI benefit level would remain eligible for food stamps, these provisions would cut off SSI recipients' food stamps in a manner not necessarily based on income, create an administrative monstrosity in the food stamp program because of the recipient-by-recipient calculations required, and possibly eliminate food stamps for many SSI recipients whenever SSI benefits increase, even if these benefit increases are designed solely to keep pace with the cost of living.

The permanent solution I am suggesting was included in S. 1514, the supplemental Security Income Amendments of 1975, which I introduced with 10 cosponsors on April 24. It was included in similar comprehensive legislation to amend the supplemental security income program which I introduced last August, and is similar to a proposal I introduced at the time the last 12-month extension was being debated. It would extend the status quo until next October 1 to alleviate possible administrative problems, provide that after that time the eligibility for food stamps of households containing SSI recipients would be determined on the same income basis as other households' eligibility is determined, and prevent households who are receiving food stamps at the time of enactment, solely because one of its members is an SSI recipient, from losing those food stamps as long as the recipient remains on SSI.

The only logical reason for keeping this situation up in the air for another 12 months, other than that Congress simply has not had the time to resolve it thus far, is that the administration is due to release a study of the food stamp program on June 30. However, although the study may contain many other suggested improvements and reforms with regard to the food stamp program, I think everyone is aware what the recommendation will be with regard to SSI recipients' food stamp eligibility. The administration's position has been for the past year, and my staff has been told informally that it is likely to continue to be, that thousands containing SSI recipients should be treated the same as any other households for food stamp eligibility purposes.

I agree that this is the direction in which we should move, although it must be pointed out that households containing AFDC recipients would still be treated differently for food stamp eligibility purposes than other households unless the rules applicable to that program were changed as well. My proposal for SSI recipients differs from the administration's recommendation only in that it would protect households who have been depending on food stamps in the past from losing them under the new rules. Although no precise estimates are available, it appears that this provision would keep more than one-fourth of the households containing SSI recipients and now receiving food stamps from losing those food stamps under the scheduled new law and thousands from losing them under the administration proposal, a loss which these households generally can ill-afford. This provision would not impose a new cost in the food stamp program relative to the administration's proposal, although it does sacrifice a small amount of expected savings from the administration's proposal.

I want to bring this proposal to the attention of the Agriculture Committee and the public, particularly since the bill which contains it is before the Finance Commttee and not the Agriculture Committee. I also want to take the occasion to urge that a permanent solution to this problem be worked out promptly, so that the citizens affected around the Nation will know where they stand.

I ask unanimous consent that the amendment be printed in the RECORD.

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

AMENDMENT NO. 485

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) Section 8(a)(1) of Public Law 93-233 is amended by striking out "18-month period", where it appears in the matter preceding the colon and in the new sentence added by such section, and inserting in lieu thereof in each instance "21-month period".

(b) Subsections (a)(2), (b)(1), (b)(2), (b)(3), and (e) of section 8 of such public law are each amended by striking out "18-month period" and inserting in lieu thereof "21-month period".

SEC. 2. Section 5 of the Food Stamp Act is amended by adding the following new subsection:

"(e) On and after October 1, 1975, the eligibility for participation in the food stamp program of any household which contains a member with respect to whom supplemental security income benefits are being paid under title XVI of the Social Security Act shall be determined on the basis of the uniform national eligibility standards for non-public assistance households established by the Secretary pursuant to this section.".

SEC. 3. Notwithstanding any other provision of law, if, for the month in which the amendments made by sections 1 and 2 are enacted, any household has been certified as eligible (solely because a member of such household is an individual with respect to whom supplemental security income benefits are being paid under title XVI of the Social Security Act) to receive food stamps under the Food Stamp Act of 1964, such household shall continue to be eligible for food stamps under the Food Stamp Act of 1964 for each month thereafter in a continuous period of months for which there is being paid to such member such supplemental security income benefits.

AUTHORIZATION OF APPROPRIATIONS FOR THE ADMINISTRATION OF FOREIGN AFFAIRS—S. 1517

AMENDMENT NO. 486

(Ordered to be printed and referred to the Committee on Foreign Relations.)

U.S. CONSULATE IN GOTHENBURG, SWEDEN

Mr. HUMPHREY. Mr. President, on behalf of *myself and Senators* MAGNUSON, MCGEE, JAVITS, and KENNEDY.

I submit an amendment to S. 1517, a bill to authorize appropriations for the Administration of Foreign Affairs, International Organizations, Conferences and Commissions, Information and Cultural Exchange, and for other purposes.

The purpose of this amendment is to authorize the reopening of the U.S. consulate in Gothenburg, Sweden.

The American consulate in Gothenburg was closed for economic reasons in 1970. The consulate in this important port city never has been reopened, despite repeated requests to the State Department that it should take such action.

Hopefully, the legislation I am submitting today will bring about a change in administration policy.

When the Gothenburg consulate was closed 5 years ago, American relations with Sweden were at a low point. Fortunately, since that time, Swedish-American relations have improved. There is now an American Ambassador in Stockholm and a Swedish Ambassador here in Washington. Our bilateral relations with Sweden have been normalized.

However, I believe Swedish-American relations should be more than "normal." They should be warm, friendly relations, which mirror the great human link between the United States and Sweden.

I believe it would be appropriate for the United States to reopen its consulate in Gothenburg in time for the celebration of the American Bicentennial. Until 1970, the Gothenburg consulate claimed the record of being the first and oldest American consulate in Western Europe, having established ties with a struggling and fledgling United States of America in 1797. Moreover, it served as the port of departure for hundreds of thousands of Swedes coming to the "New Land."

But historical and cultural imperatives for the reopening of the consulate cannot be the only justification for the expenditure of tax dollars in the State Department's budget. I believe a strong case can be made that it is in the economic and political interests of the United States to have a consulate located in the largest, centrally located, ice-free port in Scandinavia. Gothenburg is by any standard in the "big league" of world shipping and trade in which numerous American companies are trying to participate. Many of the large Swedish industries, such as Volvo, SKF, ESAB and Hasselblad, as well as the large shipyards of Eriksberg and Gotaverken are located in Gothenburg.

I want to point out that many American corporations are now making use of Gothenburg's various commercial and trading facilities. But, unlike 45 other countries, the United States has no Consul General on hand to assist Americans with their many problems related to trade and commerce.

For these and several other reasons, I am introducing this amendment which will cost very little in time and effort but will return goodwill and friendship far beyond any economic cost for both Americans and Swedes. And it will, in a major and significant fashion, reestablish an historical link which has been present in Swedish-American relations since the days of the founding of our Republic.

The reopening of the Gothenburg Consulate is a symbolic act that will mean that the United States remembers and treasures its oldest friends. For second and third generation Americans of Swedish descent, it will serve to reemphasize ties with a city and a country that their forefathers left to seek the promise of a new land. And it will mean in very practical terms that Swedish-American economic relations will be markedly improved.

Mr. President, it is my hope that this amendment will receive the support of the administration and that upon its passage the President will reopen this important Consulate.

I ask unanimous consent that the amendment be printed in the RECORD.

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

AMENDMENT NO. 486

On page 3, between lines 6 and 7, add the following new section:

REOPENING OF UNITED STATES CONSULATE AT GOTHENBURG, SWEDEN

SEC. 102. (a) It is the sense of the Congress that the United States Consulate at Gothenburg, Sweden should be reopened as soon as possible after the date of enactment of this Act.

(b) (1) There are authorized to be appropriated for the Department of State for fiscal year 1976, in addition to amounts authorized under section 101 of this Act, such sums as may be necessary for the operation of such Consulate.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

DESERT PUPFISH NATIONAL MONUMENT—S. 70

AMENDMENT NO. 487

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

Mr. CRANSTON. Mr. President, on January 15 I introduced S. 70, to authorize the establishment of the Desert Pupfish National Monument in the States of California and Nevada.

Today—joined again by my colleague Senator JOHN V. TUNNEY—I introduce an amendment to S. 70 in the nature of a substitute. The revised bill, which renames the Devil's Hole portion of Death Valley National Monument as the Desert Pupfish National Monument, is designed to conform to the December 1974, decision of the Ninth Circuit Court of Appeals which upheld a district court limitation on the pumping of water in Ash Meadows area where the pupfish reside.

Mr. President, I ask unanimous consent that the amendment be printed at this point in the RECORD, followed by the Ninth Circuit Court of Appeals opinion, which offers both an important interpretation of Federal water doctrine as well as a pertinent history of pupfish litigation.

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

AMENDMENT NO. 487

Strike out all after the enacting clause and insert in lieu thereof the following:

That, in order to preserve and protect several species of desert pupfish, and to interpret their evolution in areas of their natural environment, for the benefit and education of the people of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to rename the Devil's Hole portion of Death Valley National Monument, which was added to the Death Valley National Monument by Proclamation numbered 2961 of January 17, 1952 (66 Stat. e18), the Desert Pupfish National Monument, (hereinafter referred to as the "national monument") and the Secretary is also authorized to expand the boundaries of the national monument in the States of Nevada and California to those depicted on the drawing entitled "Desert Pupfish National Monument," numbered NM-DP-91,000, and dated January 1971, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. Within the boundary of the national monument, the Secretary may acquire lands, waters, and interest therein by donation, purchase with donated or appropriated funds, or exchange. Lands, waters, and interests therein owned by the States of California or Nevada, or any political subdivision thereof, may be acquired only with the consent of such owner. Until the Secretary determines that lands, waters, and interests therein have been acquired sufficient to constitute an efficiently administrable unit for the purposes of this Act, the Secretary shall administer the lands, waters, and interests therein within the boundary of the national monument as part of the Death Valley National Monument and in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.).

SEC. 3. Any funds available for the Devil's Hole portion of Death Valley National Monument on the date of such establishment shall be available for the purposes of the national monument established pursuant to this Act.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

[U.S. Court of Appeals for the Ninth Circuit, No. 74-1690]

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE, AGAINST FRANCIS LEO CAPPAERT, MARILYN I. CAPPAERT, B. L. BARNETT, INDIVIDUALS, AND SPRING MEADOWS RANCH, DEFENDANTS-APPELLANTS.

State of Nevada, ex rel. Roland D. Westergard, State Engineer, Interventor.

[U.S. Court of Appeals for the Ninth Circuit, No. 74-2168, Opinion]

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE, AGAINST FRANCIS LEO CAPPAERT, MARILYN I. CAPPAERT, B. L. BARNETT, INDIVIDUALS, AND SPRING MEADOWS RANCH, DEFENDANTS.

State of Nevada, ex rel. Roland D. Westergard, State Engineer, Intervenor-Appellant.

Appeal from the United States District Court for the District of Nevada.

Before: Carter and Choy, Circuit Judges, and Solomon,* District Judge

Solomon, Judge:

Pupfish (cyprindon diabolis) live in Devil's Hole, in the Death Valley National Monument in Nevada. They are a unique and endangered species. In an action filed by the United States (Government) to protect these fish, the district court limited the amount of water which the owners of a nearby cattle ranch may pump. The Cappaerts, owners of the ranch, and the State of Nevada, which intervened on the side of the Cappaerts, appeal.

The Cappaerts' ranch consists of 12,000 acres, of which 4,000 acres are in cultivation. The ranch, which represents an investment of more than 7 million dollars, has an annual payroll of more than $340,000 and employs more than 80 people. Between 1700 and 1800 head of cattle are fed on the ranch.

The Cappaerts drilled wells and pump groundwater[1] on their land for irrigation. Devil's Hole, a part of the Death Valley National Monument, is located within three miles of several wells on the ranch. Devil's Hole consists of a 40-acre tract in which there is a deep limestone cavern. At the bot-

Footnotes at end of article.

tom of this cavern there is a pool about 65 feet long, 10 feet wide, and more than 200 feet deep. There are steep rock walls on three sides of the pool, but on the fourth side there is a sloping rock shelf on which algae grows. This pool is part of the 4,500 square mile groundwater system from which the Cappaerts pump their water.

The Devil's Hole pupfish live in this pool. These pupfish evolved after the Death Valley Lake System dried up, isolating this species of fish from its ancestral stock. The pupfish population varies from 200 in the winter to 800 after spawning in the spring and depends for its survival on the sloping rock shelf which provides food and a spawning ground. The Devil's Hole pupfish are less than one inch long and do not exist anywhere else in the world. They have been designated an endangered species under the Endangered Species Act of 1973, 16 U.S.C. § 1533 (1974), 50 C.F.R. § 17.

The water level in the pool is measured from a copper washer which the U.S. Geological Survey placed on the shelf in 1962. Between 1962 and 1968 the average water level was 1.2 feet below the marker. In 1968, after the Cappaerts began to pump, the summer water level [2] steadily decreased; in 1970 to 3.17 feet below the marker; in 1971 to 3.48 feet and in 1972 to 3.9 feet. At these water levels large areas of the critical rock shelf are exposed. At 3.6 feet below the marker, 42 per cent of the shelf is exposed, and at 3.7 feet the exposure increases to 55 per cent. The shelf exposure decreases the algae production and limits the spawning area which in turn reduces the Devil's Hole pupfish's chance to survive.

On June 5, 1973, following a number of hearings, the court granted the Government's motion for a preliminary injunction. This injunction required that pumping on the Cappaert's ranch be limited so that the mean water level of 3.0 feet below the copper washer be attained within 90 days. The court also appointed a special master to control the pumping of other wells in order to reach and maintain this water level.

Among the extensive findings entered by the District Court were the following:

"9. Through the Presidential Proclamation of January 17, 1952, and its publication in the Federal Register on January 23, 1952 (17 Fed. Reg. 691), the unappropriated waters in, on, under and appurtenant to Devil's Hole were withdrawn from private appropriation as against the United States and reserved to the extent necessary for the requirements and purposes of the said reservation."

"The purposes of the reservation of Devil's Hole as part of Death Valley National Monument includes the preservation of the pool of water and the preservation of the Devil's Hole pupfish (Cyprinodon diabolis) which live therein."

"14. The natural rock shelf and rubble thereon on which the Devil's Hole pupfish depend for feeding, reproduction and, hence, their survival, is nearly 100% covered with water when there is a mean water level of 3.0 feet below the copper washer."

"16. The defendants' pumping of groundwater from wells known as Nos. 1, 2, 3, 4, 5 and 6, and 16 and 17, has drawn water from the springs and underground sources which comprise the supply for Devil's Hole. Because the defendants' wells and Devil's Hole are hydraulically connected, defendants' pumping has caused the water level in Devil's Hole to drop."

"24. In order to maintain a viable continuous population of Devil's Hole pupfish, the water level in Devil's Hole must be maintained above the natural rock shelf and the rubble thereon, which is a minimum of not less than 3.0 feet below the copper washer."

"25. If the water level at Devil's Hole drops below 3.0 feet below the copper washer, the survival of the Devil's Hole pupfish will be threatened, that is, the time of their becoming extinct in the natural evolutionary order will be accelerated."

Both the Cappaerts and the State of Nevada appealed. The Cappaerts also filed motions to modify, pending appeal, the preliminary injunction to permit them to pump down to 3.7 feet below the copper washer. Pending appeal, this Court permitted the Cappaerts to pump so long as the water level did not go lower than 3.3 feet below the copper washer.

On January 17, 1953, President Truman, by Presidential Proclamation 2961, withdrew Devil's Hole from the public domain and made it part of the Death Valley National Monument. U.S. Code Cong. & Adm. News, 82d Cong., 2d Sess., Vol. 1 at 964 (1952); 17 Fed Reg. 691. The Proclamation was issued under the Act for the Preservation of American Antiquities, 16 U.S.C. § 431 (1974), which authorizes the President to declare ". . . objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments . . . ."

The Government contends that the Proclamation, with its express reservation of the Devil's Hole pool and the surrounding land from the public domain, contains an *implied* reservation of enough groundwater to assure preservation of the pupfish in that pool.

The implied reservation of water doctrine originated in *Winters* v. *United States*, 207 U.S. 564 (1908).[3] The Court in *Winters* held that private landowners could not impair Indian rights in a river which formed one boundary of a reservation, even though the Congressional grant of the land to the Indians had not mentioned water rights. The land reserved for the Indians was arid. The Court held that a grant of water rights must be implied because Congress intended by the grant of land to encourage the Indians to become farmers.

In *Arizona* v. *California*, 373 U.S. 546, 601 (1963), the Supreme Court extended the reservation doctrine of *Winters* to include waters reserved for federal lands which had been set aside for recreation, wildlife, or forests. This was reaffirmed and extended in *United States* v. *District Court for Eagle County*, 401 U.S. 520, 522–23 (1971). There the Court held that the Federal Government's authority "to reserve waters for the use and benefit of federally reserved lands . . . extended to 'any federal enclave.'"

The Cappaerts contend, however, that the doctrine of implied reservation of water does not apply to groundwater, but only to surface water. Although these Supreme Court cases involved only surface water rights, the reservation of water doctrine is not so limited.

Two cases in the Ninth Circuit approved the application of the reservation of groundwater when it clearly appeared that water was needed to accomplish the purpose of the reservation. *Nevada ex rel. Shamberger* v. *United States*, 165 F.Supp. 600 (D. Nev. 1958), *aff'd on other grounds*, 279 F.2d 699 (9th Cir. 1960); *Tweedy* v. *Texas Co.*, 286 F.Supp. 383 (D. Mont. 1968).

In our view the United States may reserve not only surface water, but also underground water.[4]

The Cappaerts assert that the 1952 Presidential Proclamation was intended to preserve only the Devil's Hole pool with its unique limestone formation and not to protect the pupfish, and that therefore there was no implied reservation of groundwater. We reject that argument.

The Proclamation added the Devil's Hole pool to the Death Valley National Monument after reciting:

"WHEREAS the geologic evidence that this subterrahean pool is an integral part of the hydrographic history of the Death Valley region is further confirmed by the presence in this pool of a peculiar race of desert fish, and zoologists have demonstrated that this race of fish, which is found nowhere else in the world, evolved only after the gradual drying up of the Death Valley Lake System isolated this fish population from the original ancestral stock that in Pleistocene times was common to the entire region; and

"WHEREAS the said pool is of such outstanding scientific importance that it should be given special protection. . . ."

The fundamental purpose of the reservation of the Devil's Hole pool was to assure that the pool would not suffer changes from its condition at the time the Proclamation was issued in 1952; that condition included the pool's unique inhabitants, the pupfish. The Proclamation referred to the significant contribution of the pupfish to the scientific importance of the Devil's Hole pool; it implicitly reserved enough groundwater to assure preservation of the pupfish. This conclusion is reinforced by the National Park Service Act, 16 U.S.C. § 1 (1974), which states that "the fundamental purpose" of all national parks and monuments is ". . . to conserve the scenery . . . and the wild life therein . . . by such means as will leave them unimpaired for the enjoyment of future generations."

The Cappaerts contend that under Nevada law they have ownership rights to the underground water which can only be taken from them by eminent domain. They assert that the 1952 Presidential Proclamation attempted to reserve underground water which belonged to their predecessor in interest.

In 1890 and 1892, the State of Nevada by selection acquired fee simple title from the United States Government to the land now owned by the Cappaerts. The Desert Land Act of 1877, 43 U.S.C. § 321 (1964), as construed in *California-Oregon Power Co.* v. *Beaver Portland Cement Co.*, 295 U.S. 142, 162 (1935), provides that a transfer of federal land out of the public domain after the date of the Act would not pass title to any unappropriated apurtenant water; water rights would be determined under the law of the state in which the land was located. Because water rights were severed from title in 1877, Nevada got no water rights in 1890 and 1892 when it acquired title to the Cappaerts' land. Therefore, the Cappaerts, as successors in interest, possess no water rights unless they or a predecessor acquired such rights under Nevada law.

The Cappaerts argue that Nevada has adopted the old common law doctrine, established in *Action* v. *Blundell*, 12 M. & W. 324 (Exch. Chamber 1843), that a landowner has unlimited dominion over all waters beneath his property. This doctrine, the Cappaerts contend, establishes their water rights as a matter of Nevada law.

The Supreme Court of Nevada in *Jones* v. *Adams*, 19 Nev. 78, 6 P. 442 (1885), repealed that common law doctrine. The court adopted and applied the theory of prior appropriation [5] as the basis for determining water rights. The doctrine of prior appropriation was reaffirmed in *Reno Smelting, Milling & Reduction Works* v. *C. C. Stevenson*, 20 Nev. 269, 282, 21 P. 317 (1889).

In 1913 [6] and 1939,[7] Nevada enacted statutes providing that, subject to existing rights, all waters in Nevada belong to the public and may be appropriated as provided by statute, and not otherwise. Because no one had previously appropriated water rights through beneficial use, there were no "existing rights" to water on the Cappaerts' land in 1939. Thereafter, water rights could only be acquired, as the statutes provided, by obtaining a permit from the state. N.R.S. 533.325.

The constitutionality of the basic principles of the Nevada Water Code was upheld

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Footnotes at end of article.

in *Humboldt Lovelock Irrigation Light & Power Co.* v. *Smith*, 25 F.Supp. 571 (D. Nev. 1938). Such statutes which abolished common law water rights when the landowner had not made actual beneficial use of the water were held to be a valid exercise of the police power. *California-Oregon Power Co.* v. *Beaver Portland Cement Co.*, 73 F.2d 555 (9th Cir. 1934), *aff'd on other grounds*, 295 U.S. 142 (1935).

Here neither the Cappaerts nor their predecessors made actual beneficial use of water until 1968. Even if they had some common law claim, they had not established a vested property right in the water based on prior appropriations before Nevada declared that groundwater belonged to the public.

Finally, the Cappaerts contend the Government is estopped from enjoining them from the unrestricted use of their wells located more than one mile from Devil's Hole. In 1969, the Cappaerts received land within one mile of Devil's Hole under a patent granting them "all rights, privileges, immunities and appurtenances . . . subject to any vested and accrued water rights for mining, agriculture, manufacturing or other purposes . . ." The Cappaerts have drilled wells and pumped water on this land.

The Cappaerts admit they had no oral understanding with the Government agents about the water pumping, and they further admit that these agents made no oral representation. The Cappaerts argue, however, that the Government knew at the time of the land exchange that water wells would be drilled, but that the Government specified only that no wells should be drilled within one mile of Devil's Hole. The Cappaerts say that they spent large sums of money in drilling the wells and in changing their farming operations, relying on their justifiable belief that they could drill wells and pump water without limitation.

This contention lacks merit. Estoppel cannot be invoked against the Government under the facts of this case. The statement of Mr. Justice Black in *United States* v. *California*, 332 U.S. 19, 40 (1947), is particularly appropriate here.

"The Government, which holds its interests here as elsewhere in trust for all the people, is not to be deprived of those interests by the ordinary court rules designed particularly for private disputes over individually owned pieces of property; and officers who have no authority at all to dispose of Government property cannot by their conduct cause the Government to lose its valuable rights by their acquiescence, laches, or failure to act."

The rule that estoppel may not be invoked against the Government in cases involving public lands is set out in the excellent opinion of Judge Barnes in *Beaver* v. *United States*, 350 F.2d 4 (9th Cir. 1965).

Even if the doctrine of estoppel were available against the Government, it could not be applied here because there were no misleading statements or conduct that would give rise to an estoppel between private parties. Here the Government is not asking the Cappaerts to stop pumping but only to limit pumping to the level at which the pupfish can survive.

The State of Nevada, as intervenor, has asserted additional grounds for reversal.

Nevada contends that the federal government is bound by state water laws, and that the rights which the Government asserts here were not acquired in conformity with state law. Under the Nevada law in effect in 1952, water rights could only be perfected by the issuance of a permit by the State Engineer.

The Government asserts that its rights were established by the implied reservation in the Presidential Proclamation of 1952 and that the United States is not bound by state water laws when it reserves land from the public domain. We agree.

The Desert Land Act of 1877, *supra*, severed soil and water rights on "public lands" and provided that such water rights were to be acquired in the manner provided by the law of the state of location. *California-Oregon Power Co.* v. *Beaver Cement Co.*, *supra* at 162. But state water laws do not apply to "reservations"—lands withdrawn from the public domain. *Federal Power Commission* v. *Oregon*, 349 U.S. 435, 444, 448 (1955).

We hold that the Proclamation of 1952, which withdrew the Devil's Hole pool from the public domain, implicitly reserved the waters necessary to sustain the pupfish and legally established the Government's rights as against any future appropriation.

Nevada next contends that the District Court did not have jurisdiction to adjudicate the water rights in this case. Nevada argues that the Government must exhaust state procedures for determining water rights before going to a federal court. There is no merit in this contention.

Nevada relies on the so-called McCarran Amendment, 43 U.S.C. § 666 (1964).[8] That statute waives the sovereign immunity of the United States in certain cases involving adjudication of water rights. The waiver enables states to adjudicate competing claims for water rights in certain cases in which the United States is one of the claimants.

The McCarran Amendment was enacted to waive sovereign immunity when the United States is a defendant in a state or federal action so that water rights may be fairly and fully adjudicated. Congress did not intend to limit the forums available to the United States as a plaintiff by narrowing federal court jurisdiction. In *United States* v. *Nevada et al.*, 412 U.S. 534, 538 (1973), the Supreme Court noted that the District Court had jurisdiction to hear a case brought by the United States involving competing claims to water rights.

Nevada also contends that even if the District Court had concurrent jurisdiction with the state courts, the doctrine of res judicata bars the Government from collaterally attacking the decision of a state administrative body—here the State Engineer.

In April, 1970, the Cappaerts applied to the State Engineer for permits to use groundwater from several wells.[9] The United States was not a party to these proceedings, nor was it ever served with process. Nevertheless, employees of the National Park Service learned of the applications through a public notice. A field solicitor for the National Park Service protested the applications because extracting groundwater would lower the water level in the Devil's Hole pool and might endanger the pupfish.

At the hearing held before the State Engineer in December, 1970, the solicitor explained the geological and hydrological bases for the Government's concern. He asked that the Cappaerts' applications be denied or postponed pending further scientific studies. The solicitor did not raise the jurisdictional issue or any of the legal issues which the United States had the right to assert.

In August, 1971, the Government filed this action in District Court to enjoin the Cappaerts from infringing on the Government's water rights at Devil's Hole. Nevada contends that the State Engineer's decision is res judicata and this action is therefore barred. We disagree.

The State Engineer did not have the authority to adjudicate the water rights of the United States because the United States did not waive its sovereign immunity.

Nevada's reliance here on the McCarran Amendment[10] is misplaced. The McCarran Amendment was enacted to waive the sovereign immunity of the United States in cases in which the presence of the United States as a party was necessary to the full and fair adjudication of competing claims to water rights. The Supreme Court in *Dugan* v. *Rank*, 372 U.S. 609, 618 (1963), interpreted that statute to waive sovereign immunity only in ". . . a case involving a *general* adjudication of 'all the rights of various owners on a given stream,' . . ." *See State of California* v. *Rank*, 293 F. 2d 340, 346 (9th Cir. 1961). The Senate Report on the bill which became the McCarran Amendment shows the type of adjudication which was contemplated by Congress. The Report contained the following excerpt from *Pacific Live Stock Co.* v. *Lewis*, U.S. 440, 447 (1916):

". . . . All claimants are required to appear and prove their claims; no one can refuse without forfeiting his claim, and all have the same relation to the proceeding. It is intended to be universal and to result in a complete ascertainment of all existing rights. . . ." S. Rep. No. 755, 82d Cong., 1st Sess. 5 (1951).

The proceeding before the State Engineer of Nevada was not a "general adjudication". The United States was not required to appear and prove its water rights to prevent forfeiture of its claims; the water rights of the United States were not in issue. The United States appeared only to explain the factual basis on which it opposed the Cappaerts' applications.

Furthermore, the McCarran Amendment waives sovereign immunity only in cases in which the United States is a defendant and has been served with process. The United States was neither a defendant nor served with process in the proceedings before the State Engineer.

Even if the United States had waived its sovereign immunity, we are not bound to give res judicata effect to the decision of an administrative body in a case of this kind. As the court said in *Grose* v. *Cohen*, 406 F.2d 823, 824 (4th Cir. 1969):

"*Res judicata* of administrative decisions is not encrusted with the rigid finality that characterizes the precept in judicial proceedings. . . . Application of the doctrine often serves a useful purpose in preventing relitigation of issues administratively determined, . . . but practical reasons may exist for refusing to apply it, e.g., United States v. Stone & Downer Co., 274 U.S. 225 (1927). And in any event, when traditional concepts of *res judicata* do not work well, they should be relaxed or qualified to prevent injustice. 2 Davis, Administrative Law, § 18.03 (1958)."

Although the State Engineer may have expertise in the administration of Nevada's water laws, there is no evidence that he is qualified to consider or decide the complex issues of federal law involved in this case. The State Engineer's decision is not entitled to res judicata effect in this action.

We affirm the decision of the District Court. The District Court held the water level should be maintained at 3.0 feet below the copper washer in order to preserve the pupfish in the Devil's Hole pool. Pending this appeal, we permitted the Cappaerts to pump as long as the water level did not go below 3.3 feet. We remand this case to the District Court to determine whether, on the facts developed during the pendency of this appeal, the lower water level may be adequate to preserve the pupfish.

We direct the District Court to retain continuing jurisdiction so that it may promptly act if a change in water level is required to preserve and protect the pupfish in the Devil's Hole pool.

Affirmed and remanded.

FOOTNOTES

*The Honorable Gus J. Solomon, Senior United States District Judge for the District of Oregon, sitting by designation.

[1] In this opinion "groundwater" will be used synonymously with "underground water".

[2] The Cappaerts pump water only from March to October. During the rest of the year the water level is higher.

[3] It was established before *Winters* that the Federal Government has the power to reserve waters which are needed for federal lands and to exempt those waters from appropriation under states laws. *United States* v. *The Rio Grande Dam & Irrigation Co.*, 174 U.S. 690, 703, 706 (1899); *United States* v. *Winans*, 198 U.S. 371, 383 (1905). In those cases, however, the Government had expressly dealt with water rights.

[4] It is interesting that Nevada administers its water laws so as to provide that rights to groundwater can be perfected just as readily as rights to surface water.

[5] Under the doctrine of prior appropriation, the first person to possess by beneficial use water for domestic purposes, mining, agriculture, or manufacturing has vested and accrued rights to the water as against any later appropriators. The central principle of the doctrine is beneficial use of water, not land ownership. *Atchison* v. *Peterson*, 87 U.S. 507 (1874); Powell, Real Property, Vol. 5, ¶ 734, page 442.

[6] N.R.S. 533.030. Appropriation for beneficial use.

"1. Subject to existing rights, all such water may be appropriated for beneficial use as provided in this chapter and not otherwise."

[7] N.R.S. 534.020.

"All underground waters within the boundaries of the state belong to the public, and, subject to all existing rights to the use thereof, are subject to appropriation for beneficial use only under the laws of this state relating to the appropriation and use of water and not otherwise."

[8] "Suits for adjudication of water rights—Joinder of United States as defendant; costs

(a) Consent is given to join the United States as a defendant in any suit (1) for the adjudication of rights to the use of water of a river system or other source, or (2) for the administration of such rights, where it appears that the United States is the owner of or is in the process of acquiring water rights by appropriation under State law, by purchase, by exchange, or otherwise, and the United States is a necessary party to such suit. The United States, when a party to any such suit, shall (1) be deemed to have waived any right to plead that the State laws are inapplicable or that the United States is not amenable thereto by reason of its sovereignty and (2) shall be subject to the judgments, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances; *Provided*, That no judgment for costs shall be entered against the United States in any such suit.

SERVICE OF SUMMONS

(b) Summons or other process in any such suit shall be served upon the Attorney General or his designated representative."

[9] Sections 534.050 and 534.080 of the Nevada Revised Statutes both provide that rights to use groundwater must be obtained in compliance with Chapter 533. That chapter provides that a person who wishes to appropriate public water for his use must file an application with the State Engineer and must then publish notice of the application. N.R.S. 533.325 and 533.360. Interested persons may protest the application, and the application and protest may be considered at a hearing by the State Engineer. N.R.S. 533.365. The application may be refused if to grant it would be "detrimental to the public welfare". N.R.S. 533.370.

[10] See Footnote 8, *supra*.

JOINT ECONOMIC COMMITTEE HEARINGS ON THE FAST BREEDER REACTOR

Mr. HUMPHREY. Mr. President, the Joint Economic Committee has just finished 2 days of hearings on the economics of the liquid metal fast breeder reactor (LMFBR). Witnesses dealt with a broad range of issues that bear on the breeder debate.

The validity of Energy Research and Development Administration figures on electricity demand and uranium reserves was evaluated. The safety and safeguard problems surrounding plutonium recycling were briefly reviewed, and the underlying reasons for the vast coal escalation in the breeder program were discussed in detail. The impact of delay in the construction of the Clinch River Breeder Reactor also was evaluated.

On Wednesday, April 30, Mr. Elmer Staats, Comptroller General of the United States, Mr. Sheldon Meyers of the Environmental Protection Agency, and Dr. Theodore Taylor, a distinguished nuclear scientist and Atomic Energy Commission consultant testified.

Mr. Staats, in reviewing the General Accounting Office report, "The Liquid Metal Fast Breeder Reactor—Past, Present and Future," noted the enormous cost escalation that has plagued test facilities for the demonstration breeder reactor.

The fast flux test facility in the State of Washington was estimated to cost $87.5 million in 1967, but as of 1974, the cost estimate had risen to over $1 billion.

The sodium pump test facility's cost estimate has risen from $6.8 million in 1966 to $57.5 million in 1974.

Total program costs have risen from $1.8 billion in 1968 to $10.7 billion.

The Comptroller General also pointed out that Congress should investigate, in detail, the advantages and disadvantages of using foreign fast breeder reactor technology. In light of this recommendation, I have requested that the General Accounting Office begin, immediately, a detailed analysis of foreign breeder programs and how the United States might work with foreign nations to strengthen its own work on the breeder.

Sheldon Meyers reviewed the Environmental Protection Agency's evaluation of the ERDA environmental impact statement. The EPA statement says that,

Current information is inadequate to predict the ultimate environmental impacts (of the LMFBR) with any certainty EPA also pointed out that commercialization of the LMFBR could be delayed from 4 to 12 years. Using the latest demand projections of Project Independence, our preliminary analyses indicate that a delay of 4 to 12 years might be accommodated without significantly reducing the uranium conservation value of the breeder.

EPA also believed that ERDA's uranium reserve figures were too conservative and that its electricity demand forecasts were too pessimistic, based on Project Independence estimates.

Dr. Theodore Taylor described the framework necessary to effectively safeguard breeder reactors against plutonium theft. He explained, that while the cost of an effective protective network would not be high, the logistics of the network would be very complex. He suggested that a new Federal plutonium police force might be necessary if existing law enforcement bodies could not handle the job.

On Thursday, May 8, Dr. Robert Seamans, the Administrator of the Energy Research and Development Administration and a panel composed of four witnesses—Mr. Ralph Nader, consumer activist, Mr. John Simpson, a director of Westinghouse Electric Corp., Dr. Thomas Cochran, chief scientist of the Natural Resources Defense Council, and Dr. Thomas Stauffer, a Harvard University economist—testified before the JEC.

Dr. Seamans conceded that original preembargo ERDA electricity demand forecasts were generally high but still consistent with the lower ranges of initial ERDA estimates.

Robert Thorne, an Assistant ERDA Administrator, told the committee that the United States is the largest exporter of uranium fuel. He explained that with the sale of a light water reactor to a foreign nation, the United States is usually expected to supply that nation with uranium fuel. He also noted that the United States is the cheapest supplier of uranium.

The scheduled introduction date for commercial breeder plants in the late 1980's is based on a continuation of the high preembargo growth rates of demand for electricity, and on a projected depletion of domestic uranium reserves.

It was revealed on May 8 that the Federal Government has an open-ended financial commitment to fund the Clinch River breeder demonstration plant, and that electric utilities have strictly limited their contributions for the Clinch River project to only $250 million. It was also confirmed in the questioning of Dr. Seamans that ERDA was seeking approval from Congress of a total program authorization this year, which would eliminate ERDA's need to request new authorizations each year.

The panel discussion which followed Dr. Seaman's testimony included a heated debate between Ralph Nader and John Simpson concerning the merits of the breeder program. Mr. Simpson saw the breeder as the only energy source consistent with the U.S. policy of energy independence and capable of meeting U.S. electricity demand beyond 1990. Nader, however, labeled nuclear energy in general, and the breeder in particular, as the most dangerous and risky energy source available. Cochran, an opponent of the breeder, and Stauffer, a supporter, explained how they arrived at different conclusions in their cost-benefit analyses of the program.

The debate on how to proceed with the breeder program will clearly be with us for years to come. Therefore, I urge my colleagues to read the record of the

two JEC hearings on the economics of the breeder. They are valuable supplements to the excellent record of hearings on the breeder conducted by the Joint Committee on Atomic Energy, under the very able leadership of Senator PASTORE. He and Congressman MCCORMACK, chairman of a special subcommittee evaluating the breeder program, are to be commended for their thoughtful and knowledgeable direction of the breeder program.

ADDITIONAL STATEMENTS

ADDRESS BY PRESIDENT FORD AT UNIVERSITY OF PENNSYLVANIA COMMENCEMENT

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the timely and eloquent remarks of the President at the occasion of the University of Pennsylvania commencement last weekend be printed at this point in the RECORD.

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

REMARKS BY THE PRESIDENT

I am delighted to be here on this momentous occasion in the history of the University of Pennsylvania.

Two hundred years ago, the members of the Second Continental Congress adjourned their sessions and marched over in a body to participate in the graduation ceremonies of your great institution. I congratulate you on this unique bit of history. From my experience, it is not all that easy to get a Congress to march together on anything.

I congratulate today's graduates. But if my congratulations are to have real meaning, I must relate the past to the present, and our national goals to your individual goals.

It is a special privilege to address a university whose growth has always been oriented toward the future. Your medical school, your school of business and other departments of the University of Pennsylvania testify to a timely response to needs of the community by equipping individuals to solve problems.

Your illustrious founder, Benjamin Franklin, conceived of the University as a center where an individual can find fulfillment through the individual's own efforts. Franklin did not see schools as the purveyors of all the answers. He saw them constantly responding to the needs of the community rather than conforming scholars to a rigid classic mold.

Franklin's own life was a continuous self-educational process. Practical wisdom was his aim. We find nowhere in his writings the false concept of "the completion of education." He saw no limitations to what an individual could learn.

When eight bachelors and four masters received their degrees here 200 years ago, the Continental Congress was groping its way to a fateful decision as to the direction this country should take in the future. But there was also much talk of the past, for the delegates were determined not to repeat its mistakes.

One of the young commencement speakers in 1775 held forth on "The Fall of the Empires," which he attributed to excesses of Luxury, Venality and Vice. He was not far wrong, and he wound up by looking far into the future and expressing his hope for America—that amidst the wide waste of Empires, this one corner of the globe may at least remain the last asylum of truth, righteousness and freedom.

Freedom was on everyone's lips that day in May, 1775, just as it is in May, 1975.

The news of Lexington and Concord, though nearly a month had passed, had just reached the Philadelphia newspapers. But there was by no means unanimity for independence; indeed, if there had been public opinion polls in those days, they probably would have showed a great majority of Americans considered themselves loyal Englishmen and wanted no war.

As we read the records of 1775, we find a spirited debate was in progress right here on this campus, as well as in the nearby deliberations of the Continental Congress between the proponents of individual liberty and independence and the defenders of discipline and order.

In the long perspective of two centuries, it is clear to us today that both sides were right. The American revolution was not a single shot heard round the world. It was, as John Adams warned, a long, obstinate and bloody war that lasted six and half years, followed by another period of political experimentation in which the weak and divided infant nation barely survived. But the most remarkable thing about the beginnings of our nation is that the men of the revolution stuck to it until it was finished. Their mutual pledges of their lives, their fortunes and their sacred honor were more than empty words. In breaking with their past they did not neglect to build a better system for their posterity.

Today, we look back 200 years, not merely to take pride in our history, although we do; not merely to mark the high priority which Americans have always accorded to education and higher learning, although we do; we look back during this Bicentennial to learn some practical lessons for today and tomorrow.

As a nation, we have recently gone through some rough times. We experienced military and diplomatic setbacks—but Washington and Franklin survived experiences far worse. Inflation, high prices, unemployment, recession—all these problems were more pressing in 1775 than they are in 1975, if one believes the rhetoric of the Continental Congress and the lively reports of the colonial press.

But these are not the real lessons of the American Revolution. The real lesson of our Revolution is that national goals can be achieved only through a combination of national purpose and of national will.

The thirteen colonies in the beginning were weak militarily, dependent economically, and divided politically. Gradually they found their goals and articulated their purpose—in Thomas Jefferson's words: life, liberty and the pursuit of happiness. But the national will that saw the struggle through to its successful conclusion was better expressed by the patriot farmer who said as he picked up his musket: We'll see who's going to own this farm. I believe that spirit is very much alive in America today.

I am immensely proud of the Marines, the Airmen and the Seamen who rescued their captured countrymen and our merchant ship last week in the Gulf of Siam.

Their skill and courage, their dedication and sacrifice make us all humbly grateful and glad that a greater danger was averted.

But we must not forget that the jubilant cheers that greeted the pealing of the Liberty Bell were followed by the Trial and testing of Valley Forge.

National will comes from a consensus of national purpose, from the collective agreement among thinking citizens as to the goals they seek as a nation.

A free people will never find unamimity—but a people must be united in the pursuit of certain common goals in order to remain free.

The goals which were proclaimed here in Philadelphia after a dozen years of war and wrestling with the problems of a new kind of self-governing society are as valid today as they were in 1787:

—To form a more perfect Union
—establish justice
—insure domestic tranquility
—provide for the common defense
—promote the general welfare
—and secure the blessings of liberty to ourselves and our posterity.

We need add to these original goals only the implicit one of striving to preserve and to advance the cause of peace and harmony among all nations and all peoples. We do not need nobler or newer goals. We do need a renewel sense of national purpose and a strengthening of our national will to pursue these goals.

In a sense, our American Revolution has never ended. We are a unique people in that we are at the same time eminently practical and incurably idealistic. Americans are always more interested in the future than the past. We expect and indeed demand that tomorrow will be better than today.

While I have spoken of national goals, I know that each of you have individual goals, and that the celebration of this day is clouded by the immediate problem of furthering those goals by finding meaningful employment.

Almost a million young Americans graduating from institutions of higher learning this year are faced, through no fault of their own, with economic difficulties greater than any since the period of my own commencement with the Class of 1935.

As President, my first objective has been to overcome current economic problems. Our national goal is jobs for all who want to work and economic opportunity for all who want to achieve.

Government must follow policies that enable and encourage the private economic system to create more jobs and more meaningful jobs in the real world. Greater productivity is the only sure way to greater prosperity and a better life for everybody.

We are coming out of this recession. We are on our way. And we are on the right track. But we cannot be satisfied with simply getting back to where we were, and we will not.

We must redefine our national purposes and pursue them with a renewal of national will. On our 200th birthday shall we occupy ourselves questioning our limitations—or exploring our possibilities?

Shall we conclude from two centuries of American experience that we can do no more—or that we can do much, much, more? The United States of America that evolved from the uneasy disputations and heated debates here in Philadelphia has now before it a chance to write a new declaration of interdependence, among ourselves and with all peoples.

We must infuse our institutions with a new realism built on the old idealism—and we will. We must develop a vast new energy industry that will spur employment and ensure economic security—and we will. We must expand the control of each individual over his or her own life, liberty and pursuit of happiness—and we will.

We must increase the participation and influence of every citizen in the processes of self-government and the shaping of national consensus—and we will. We must lead humanity's everlasting effort to live harmoniously with nature, employing technology to the enrichment of spirit as well as body—and we will.

We must sustain and strengthen our alliances and partnerships with other freedom-

loving nations as we seek cooperation and rational relations with all peoples—and we will.

We must maintain our vigilance and our defenses as a symbol of our undiminished devotion to peace and a lawful world—and we will.

Finally, perhaps most importantly, we must declare again the brotherly love in which this great Commonwealth was founded. We must learn to trust one another and to help one another. We must pledge anew to one another our own lives, our own fortunes, and our own sacred honor. And we will.

Benjamin Franklin told the Constitutional Convention in those early years that "much of the strength and efficiency of any government, in procuring and securing happiness to the people, depends on opinion—on the general opinion of the goodness of that government as well as of the wisdom and integrity of its governors."

As President, I value your good opinion and hope always to deserve it. And I ask the graduates of 1975 to work with me on America's new agenda, just as the class of 1775 joined in proclaiming a new era of liberty and hope, They did well by us. We must do even better by Americans yet unborn.

ENTHUSIASM FOR BICENTENNIAL IN BLOUNT COUNTY, ALA.

Mr. ALLEN. Mr. President, on May 9, the fine people of Blount County, Ala., held an outdoor ceremony in observance of the Nation's Bicentennial.

Mr. L. J. Fishkin, national coordinator of the Johnny Horizon program under the Secretary of the Interior, visited Oneonta, the county seat of Blount County, to award certificates of appreciation on behalf of the Secretary of the Interior.

Upon his return to the Nation's Capital, Mr. Fishkin wrote me of the enthusiasm for the Bicentennial he found in Blount County; of the overwhelming reception he had received; of the warmness, the graciousness, and hospitality displayed by everyone he met.

Mr. President, I was particularly impressed by one sentence which Mr. Fishkin wrote—

> My visit was literally an unforgettable experience and convinced me that no Government official should permit himself to languish too long in his office in Washington without visiting a place like Oneonta and savoring the flavor of what America is really all about.

I am in wholehearted agreement with Mr. Fishkin on that point and I am delighted, but not surprised, at the wonderful reception accorded him by my fellow Alabamians.

Mr. President, I ask unanimous consent that the letter to me from Mr. Fishkin be printed in the RECORD.

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

U.S. DEPARTMENT
OF THE INTERIOR,
Washington, D.C., May 14, 1975.

Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: On May 9 I had the very great pleasure of participating in an outdoor ceremony in front of the Blount County Courthouse in Oneonta. The event was organized by the Blount County Bicentennial Committee and my role was to award a number of Certificates of Appreciation to individuals and organizations who had provided—and continue to provide—outstanding support of the Johnny Horizon Program.

The reason I am writing is because I am still overwhelmed by the warmness, the graciousness and the hospitality which I received at the hands of so many individuals that I dare not begin to list them for fear that I will be guilty of omissions. The distinguished gentlemen I met from the Blount County and Oneonta governing bodies; the ladies and gentlemen of the Over-60 Club in Oneonta; the teachers, principals and the Superintendent; the boys and girls and the young ladies and gentlemen of the elementary and secondary schools; the State and County Bicentennial officials—all of these folks made my visit literally an unforgettable experience and convinced me that no Government official should permit himself to languish too long in his office in Washington without visiting a place like Oneonta and savoring the flavor of what America is really all about.

My visit to that delightful city was triggered by a report which I received of the activities undertaken by the Variosa Club in support of the Johnny Horizon Program. It was with great satisfaction that I learned first-hand that the report transmitted to us by its President, Miss Amilea Porter, was indeed modest in terms of accomplishments. I might add that Miss Porter, an obviously indefatigable civic leader, took me on approximately a five-hour tour (punctuated by more walking than I've done since Army service) of sites ranging from the beauteous and imposing Palisades Park to a rehabilitated covered bridge.

In short, Sir, I had to let you in on this experience. I hope that you will find the occasion to let the good people of Blount County and Oneonta know that they have a new and loyal supporter in the ranks of the Federal bureaucracy.

Sincerely,

L. J. FISHKIN,
National Coordinator
Johnny Horizon Program.

MEMORIES OF THE MAN IN THE IRON MASK

Mr. BUCKLEY. Mr. President, 2 years ago I met an extraordinary human being named Alexander Dolgun. He had then recently arrived in this country after enduring 8 years of imprisonment in Russian slave labor camps and a further 15 years of forced residency in the Soviet Union. I talked with Mr. Dolgun about his experiences and asked if the horrors portrayed in Alexander Solzhenitsyn's "Gulag Archipelago" were accurate. Mr. Dolgun only then began to speak about some of his personal experiences at the hands of the Russian Communist secret police. What he told me has remained with me, a searing memory of what totalitarian communism can and will do to those whom it chooses to destroy, either physically or psychologically or spiritually.

Mr. President, I commend the reading of this article to all of my colleagues and ask unanimous consent that it be printed in the RECORD.

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

MEMORIES OF THE MAN IN THE IRON MASK

(By Alexander Dolgun)

NOTE.—Alexander Dolgun was an American working in the United States Embassy in Moscow when he was arrested in 1948 by agents of the secret police and accused of "anti-Soviet activities."

For the next eight years he suffered the ordeal of Stalin's prisons and labor camps. He has now written, with the help of Patrick Watson, an account of his odyssey through a system that murdered millions of Russians and foreigners and physically and psychologically crippled scores of others. After his release from prison he was not permitted to leave the Soviet Union until 1971. He is now working in Washington for the Department of Health, Education and Welfare.

The following excerpts are from his book, "Alexander Dolgun's Story: An American in the Gulag."

As soon as Sidorov started to beat me, I realized clearly that I was going to be in prison for a long time. I did not think in terms of specific periods and I certainly did not think it would be for the rest of my life. But I knew it was not going to be over soon, I knew there would be more beatings and that I would suffer a lot. I knew I would have to train myself to meet that menace, and the knowledge made me feel numb in the heart. The two or three hours of light sleep I was able to steal each day barely kept me from caving in. I was constantly hungry. My weight dropped steadily. [As time went on] the hell I was living in became a hell I could survive, but it was still hell. I believe it was at that time that my eyes and my mouth began to settle into a grim cast which is still my normal expression when I am not excited or laughing, and even then I am told it lingers around my eyes. My iron mask never came off, and I can see that it never will.

Sidorov [Dolgun's interrogator] said, ". . . You're going to the hard punishment cells for the maximum. That's twenty-one days and you'll never come out alive. I'm through with you!"

They dragged me out. I yelled going through the door, "I'll get out of here someday and I'll kill you!"

They dragged me across to the prison and down steep stone stairs. I remember being thrown in an absolutely bare cell. It was terribly cold. There was no bed, no sink, just a bucket with a lid. No window. Gray stone and black asphalt. I lay on the floor and shivered and called out with the loudest voice I could make, shaking and quivering though it was, *"I'll kill you!!!"*

I knew I could not survive that cell. I had only a shirt and trousers. The temperature was below freezing. Outside it was late October and Moscow dips way below zero Fahrenheit in November. When they brought me water my hands shook so hard that some of the water spilled on the filthy floor. The next time I looked it was frozen.

At night they brought in a wooden pallet for me to sleep on. I was dying for sleep but shivering too hard to do more than doze off, wake up, doze off.

I knew with complete certainty that I could not last five days in that cell, let alone twenty-one, and I thought confusedly that I had better keep a calendar to see how long I did last. It never occurred to me that I would not know the outcome. I was too confused.

The morning came and I did not even have a running nose. They brought me bread and water. I deliberately spilled a little more water in the corner. Later, when it froze, I skated on it, sliding around on my shoes for exercise and warmth. I sang all my songs at the top of my voice and nobody bothered me. I fainted often, and came to shivering on the ice. My only clothes during this period were my prison underwear of light cotton, and the shirt and pants I was arrested in. There was no blanket at night.

I believe I never stopped shivering, if that is humanly possible.

After a few days they brought hot soup made with salt herring. I drank it all down before I realized it was saturated with salt. I tried to ration myself on water, but I was too weak to be disciplined and I drank the whole cup right down. By nightfall I was screaming for more water. Before morning I began to have hallucinations of swimming. Was it in the sea or lake? Did I drink the water I was swimming in? Was it salt or

fresh? I just remember the shock of coming to my senses and realizing that I was stroking feebly on the bottom of my cell, weak but frantic swimming strokes. Sometimes the cell would fill with water. Every third day they brought the salt-herring soup and I was so starved I ate it even though I knew I would go mad for water.

The days passed in almost total confusion, except that I forced myself to mark the wall every morning when they brought the bread. That was the one clear moment in the day. Incredibly the strokes passed five, and then ten. I shivered, slept a bit, skated on my rink, what else I don't know. Once I wanly tapped out a message in code on the wall. There was no response. I was so lonely I would have been glad if a guard had come in to tell me to quit tapping.

I think they took my bucket out once a day. I know they never spoke.

The strokes on the wall passed twenty-one. They passed thirty. I had been in the cell a month. I think some days I was delirious all day, but I am not sure of much except that I often said, *Hold on Alex, hold on till the end!* I expected The End.

Forty-one days. A mouse has come into the cell. I will catch it and eat it. It comes in through tiny holes at the bottom of the cell. If there is one mouse there must be more. I salivate at the thought of chewing on the live mouse. I wait for him on the floor. He comes out of his hole and sniffs at me. I try to catch him but he slips through my hands. I wait with infinite patience, day after day, for my mouse.

Then I watch myself lying, shivering on the floor, covered in filth, a skeleton waiting for a mouse. I watch for hours, but the mouse never comes to the man on the floor.

I lie on the floor and stare at the mouse. He runs in the hole. I cannot find the hole.

Forty-nine days on the wall.

I am trying to catch the mouse and they are watching me through the slot in the door, but they won't come in and help me to get the mouse.

By now I know there is no mouse, no hole, but for a while I keep on trying to catch him. Then I give up trying to catch him. He still comes in through the hole in the wall that does not exist.

They are watching me through the slot in the door.

Fifty-two days on the wall, and I will die soon, and that's all right, but I still do not have a cold or a runny nose.

The door of the cell opens.

"Prisoner, get up!"

I can make it to my hands and knees. They help me. Not kindly, not roughly, just get the prisoner moving. I think there is a doctor with them. Was that later? I stand in the door of my own cell, 111, the psychic cell. At least there is a pillow here.

I did not understand their words. Wrap up the blanket and pillow? Will they take them away from me? I thought. Then I realized I was leaving cell 111. Something still alive inside me said, Alex, you made it.

They're moving you.

You got through it.

You're going to be all right! You have survived and the bad part is finished now. I was lightheaded, still shivering uncontrollably, but something akin to happy, floating.

THE FOOD CRISIS AND THE PRIVATE SECTOR

Mr. TALMADGE. Mr. President, much has been said over the past year about the responsibility of the people of the United States, through their Government, to help meet food needs of people in nations which are not self-sufficient.

Little, however, is said about how the private sector in the United States can and does contribute to these efforts.

There is a major role for the private sector, American and non-American, in improving agricultural production and productivity in the developing countries.

Indeed, American companies have identified opportunities to earn a profit on investment in food production and distribution in many developing countries, and their contributions have been most helpful to the people in these nations.

A description of how private industry is helping, and can increase its help, is contained in an address by Mr. R. H. Becker, director of research and development for the Agricultural Division of the American Cyanamid Co., to a conference in New York City on March 19 of this year. I ask unanimous consent that it be printed in the RECORD.

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

THE ROLE OF PRIVATE INDUSTRY IN FOOD PRODUCTION

As a member of private industry, I welcome the opportunity to participate in this discussion on food supplies. Too often in recent times our thinking has been clouded by the philosophies of despair and the prophets of doom. It has been further complicated by mixing the question of producing food with the problem of demand. For example, while cattle producers in the United States, Australia, and other cattle producing countries have, in the last twelve months, been faced with a glut, people have been starving in other countries. The problem of starvation is thus directly related to non-production factors such as the ability to pay, methods of distribution, and a country's cultural and humanitarian attitudes. The question of supply is related to technology and incentives to produce. On the supply side, we can be optimistic that technology can meet the world's food needs.

The system used to produce food in the United States is usually considered the standard, so most of my comments will reflect what is happening and can happen with this system, keeping in mind that adoption of these technologies by farmers in the rest of the world will require some refinement and modification. Remember, I said system—the output of a United States farmer would drop if he were moved to a less developed part of the world and a peasant farmer would in time become more productive if moved into the U.S. system—the total system of which the farmer is an important part must be considered.

First, let's look at the major areas where private research has and will continue to contribute to the food production system. That system consists of six basic elements: land and capital, labor, management, plant and animal genetics, nutrients, and non-nutrient plant and animal production agents.

Our first objective, of course, must be to extend and expand the use of all types of already proven technology. The only real restraints here are logistics and social attitudes. The private and public sectors both share the responsibility for this effort and it is underway.

In the area of new plant and animal production agents—pesticides, plant regulants, animal growth regulants, animal drugs and biologicals—virtually all the technological driving force has come from private industry.

It has been estimated that as much as 50% of U.S. crop production is dependent on pesticides. The necessity of controlling weeds, plant disease and insects is apparent. In the herbicide field, industry has clearly demonstrated that it can and will develop safe materials to cope with evolving weed populations. Indeed, the problem today in herbicides is identifying legitimate market needs. No breakthroughs are required.

In insecticides, the alarmists had presented a strong case that environmental problems and insect resistance would eventually lead to discontinued use of the three significant classes of insecticides—chlorinated hydrocarbons, organophosphates, and carbamates. The thought was that we should reduce the use of these products now and preserve them for future use. The discovery of new insecticidal classes such as modified pyrethroids should allay that fear. Although this is the only new class publicized, other classes with comparable safety and efficacy are being developed. We can and will cope with insects. Clearing of pests from central Africa alone can create a cattle capability equal to that of the United States.

A promising area of research in the pesticide area is the search for plant regulants. Many private laboratories have major efforts underway to produce technology that regulates the growth of plants in a manner which allows for better utilization of genetic potential.

When this effort matures it could produce results that are at least as significant as hybridization. Production increases of 15–20% can be expected from plant regulants in many crops in the next decade.

In food animal production the great innovations of the past have been in controlling and preventing disease and in improved animal nutrition. Emphasis is now shifting to improvements in feed efficiency. Work currently underway has the potential to improve feed efficiency in cattle by 25–40%. Improvements can come from new chemical additives, waste recycling, and the feeding of bulls instead of steers. The significance of this effort comes not only in the reduced cost of producing beef but in the freeing of production from millions of acres of corn for export to feed grain deficient countries.

Further improvement in poultry production will be coming but this species already has fairly respectable conversion ratios of grain to meat so improvement will probably be slower.

The future role of swine is less clear—improvements will have to average 50% or better to keep up with ruminants which can digest low cost cellulose as a source of feed, and poultry which have superior feed efficiencies.

In the field of plant nutrients, private industry has played a major role in the development of natural resources to supply phosphorus, potash, and nitrogen as well as the micronutrients. These businesses are primarily capital intensive and most industry research has been concentrated in the area of process improvement and engineering. With the recent cost increases for conventional fertilizers, there is now a significant incentive for research in the areas of plant regulants to enhance nitrogen fixation and in biological fixation of nitrogen. Photosynthetic organisms which utilize the sun for energy and the air for nitrogen and carbon are at least theoretically possible.

As far as plant and animal genetics are concerned, there is substantial room for improvement. Private industry has become a leader in this area in the United States. A new law of a few years back allowing the patenting of true breeding varieties of crops has assured continued private industry participation in this business. I expect we will see even further involvement from private sources as the economic opportunities improve. Along these lines it's worthy to note that farmers throughout the world readily accept new improved varieties. It's interesting that farmers in India in the mid 1960's

adopted high-yielding varieties of wheat more rapidly than Iowa farmers adopted hybrid corn in the 1930's and 40's. There still are major problems overseas, however, because most countries do not allow the economic incentives for private development of new seed stock.

In the fields of land and capital, the role of private industry is increasing rapidly. Obviously, private industry has been involved in land clearing operations for many years, and in specialized cases such as cattle raising, and banana and coffee production, has contributed significantly. Pessimists have pointed out that the amount of arable land is finite and only modestly expandable. These pessimists, however, overlook the potential for single cell protein—already a 100,000 ton/year unit has been announced. On a protein basis, this is equivalent to about 300,000 acres of productive farm land. A major advantage of this type of production is that it can be placed on land that is not arable. The unit referred to above uses petroleum as a feedstock but other work, utilizing cellulose, a renewable resource, is also quite active. The ultimate basic requirements are energy, capital, and incentive. In the future, we can expect private industry to play a major role in what I call "landless food production."

In the field of management, the vast resources of private industry have only been partially utilized. On a modern farm, the operator or owner if he is to maximize his return must of necessity be a manager. There is a group in Hawaii that has recognized this resource and converted it into a saleable program. It is currently involved in nine management and food-growing projects outside the United States. Compensation is dependent to a large extent on performance, i.e., how much food is produced. For example, they were able to play a significant role in increasing the production of sugar in Iran from 30,000 tons in 1958 to 800,000 tons today.

As you can see, there has been and is a significant role for private research in the development of food production technology. In the future, we can expect to at least duplicate the success of the past. Of course, government and university researchers also have significant programs and in most cases they complement the private effort.

The Agricultural Research Institute, in reporting the results of a United States survey (1965), stated that industry spends slightly more for agricultural research than the state agricultural experiment stations and USDA combined. What is more important about the Institute's findings is that both groups—industry and government—complement the orderly development of new technology. The government and university role is concentrated in the areas of basic research including genetics and evaluation of new candidate chemicals with industry's major effort being application and development of basic scientific principles in food production tools that can be used by food producers.

The urge to understand is basic to man and is probably the oldest motivation for scientific research. A review of scientific history will quickly reveal man's need to clarify the obscure and turn chaos to order. This is, of course, a lofty motivation for research but has led to many of the greatest discoveries of science.

Industry, particularly when considering food production, has directed its scentific effort to the more practical side of turning basic scientific knowledge into usable technology. Our effort is mission-oriented—guided by economic, social, politcal, and environmental reality.

Just as the farmers of the world who use the technology we develop are guided by the incentive of improved efficiency, we are guided by the similar incentive of realizing a sufficient return to insure the continuity of the enterprise. It is this incentive that has led to better genetic stock, plant nutrients, improved management service, animal and plant production agents, and more efficient utilization of land, capital, and labor.

I can't emphasize too heavily the importance of incentives. A sufficient return to the farmer is the driving force that expands food production.

A sufficient return to industry is the driving force that leads to new technological answers to food production problems. Industry has been criticized by those who think of short-term high profits as evil and unpatriotic, when in fact they represent a company's wise and efficient use of investors' money. In the long term, it is the existance and magnitude of the profit opportunity that attracts more research by more companies and eventually increases competition to the benefit of consumers. Constrains on profits are a deterrent to an increase in mission-oriented research.

Part of this incentive package is the patent system. Shortening the patent life of new technology has been suggested as a way of increasing competition. This may be true for the short term, but if a shortened patent life is added to the burden of what now can be 5–7 years of development work before the first pound of an agricultural chemical is sold, the incentive to maintain or expand a research organization is substantially reduced.

An effective patent system is an essential incentive and is the major reason one-half of agricultural research in the United States is private. In some major foreign countries the effective patent life on some animal health products has been reduced to zero. It is instructive that these countries cannot produce sufficient food to feed their people.

If the world is to take full advantage of the industrial research resources that are available to it, the trends toward weakening the patent system, nationalization of industry, and suspicion of the profit motive must be reversed.

Today, throughout the world, society is asking for additional assurances that both new and old technologies be more thoroughly evaluated as to their environmental and human safety.

Private industry has, in the last five years, developed the necessary tools and skills to answer the complex ecological and safety questions raised in the last decade about food production technology—the products currently being introduced in the United States reflect this new methodology. While we support the increased requirements that have helped answer important scientific questions about new food production technology, we at the same time consider it unacceptable to base new regulatory restraints of technology on emotional or theoretical fears.

Such fears led to a ban on DES and reduced feed efficiency in cattle production by about 10%. The use of DES was reinstated by the courts but the issue is not resolved and has led to a virtual embargo on the development of steroids for animal production.

Equally important is the current regulatory attitude on the use of antibiotics in livestock and poultry feed.

The FDA has raised questions they acknowledge are speculative and not documented. Yet from the public statements you could conclude they have prejudged the facts while they are still being collected, in spite of successful, beneficial use of this technology spanning 25 years without a single documented case of unfavorable effect on humans.

If we are to resolve successfully the growing need for food, regulators in all countries of the world will have to base their decisions on sound scientific principle, uniform application of law, and reasonable judgment. The frequent practice of applying easy emotional solutions to complex scientific questions will have to be abandoned.

The commitment private industry has made to food production research has been significant both in terms of dollars and results. Our existence is dependent on the generation of a continuing flow of new technology. For this reason, we select our research goals carefully to maximize the probability of achieving a usable result. We have been successful to that end and if the incentives are maintained or improved our effort will expand. Those who eat are the ultimate beneficiaries.

THE TWO-PARTY SYSTEM

Mr. HUGH SCOTT. Mr. President, an article in the May issue "First Monday", the publication of the Republican National Committee, deserves the attention of my colleagues. The article represents the comments of Dr. Frank Biondolillo, councilman at large from Staten Island on the strengths of the two-party 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:

COMMENT . . .

My particular philosophy, as a Republican, has evolved over the years to embody the concept that government can have a heart (caring about people) without losing its mind (throwing money at problems—many times unsolvable).

I believe in the two party system and will not abandon it. I will abandon those who continue to contribute to its demise.

We don't need a third party nationally or any place else.

The strength of the two party system is in its centricity. The fringe on the far left and right of both parties is the real threat to our democratic system. It isn't a stringent, strident philosophical difference that plays on our fears that is needed to separate the two major parties. Our strength should be derived from the closeness of our philosophical differences. A two party system that pits union against management, black against white, Christian against Jew, the poor against the middle class, the middle class against the wealthy, the landlord against the tenant, the farmer against the consumer, etc., is doomed to failure.

The two party system should derive its strength from its closeness, and most importantly from its responsible adversary relationship. There may not be, as George Wallace states, "a dime's worth of difference" between them, but if we can stop one or the other from stealing or squandering the dime, we've taken a giant step.

I want to belong to a party that is strong, responsible, adversary. I'm not going to insist on a divergence of philosophies, but I'm going to insist that the party in power gives the loudest bang for the smallest possible buck to the greatest amount of people—and never forgetting that the smallest minority, racially, religiously, ethnically, socially must be taken into the stream that leads to a better life for all.

The Republican Party has got to make itself comfortable for unions, minorities, women, the poor, the ethnic, the young, the old, the handicapped.

For anyone to imply that Republicanism is inconsistent with those tenents or aims is an absolute fool. But so is the person who doesn't believe that a majority of people believe this.

The Republican Party must maximize its care and concern, and throw philosophical idealogues out to the Neanderthalic fringes of the political spectrum where they belong and where the climate is inconsistent with growth.

We have the choice of remaining a 15–25 percent minority party which has let the radical Conservative philosophy image transcend our sensitivities, or to fight to remain firmly in the political mainstream where our founders intended.

The time for talk has long gone, and from now on people's opinion of the Republican Party will only change when they see action, deeds, results and care.

A Republican Party that cares; A Republican Party whose leaders aren't afraid to condemn the Watergate mentality; who aren't afraid to fight just as hard to keep corporate profits reasonable as to keep boundaries; who are just as concerned with the plight of the middle class and poor, as they are for the military-industrial complex; etc.

This country's strength comes from what might be considered conflicting terminology, and that is "adversarial unity."

America's strength is a divergent oneness. A strange conglomeration which coalesces when the emergency or need arises.

Its political institutions are the best in the world, but as is usually pointed out, not perfect. They become weak—not because of a philosophical unity, but rather because of a lack of an adversary relationship within that philosophical plateau.

The Republician Party can and must—if we are to survive—contribute that adversary position in a responsible, caring attitude.

Where do we start? We start simply by giving the people candidates who don't let philosophy transcend or blind them with respect to human needs. Simply—candidates and leaders who care.

If we have not learned a lesson from history, we certainly will be condemned to relive it.

Unfortunately, most all Republicans have been painted with a brush dipped in big business, bigotry, racism, affluency, apathy, arrogance, depression, etc., and I won't stand still for it any longer.

As a life long Republican, I am committed to the survival of our party, our nation, our people and the two party system, and I hope you will join me in re-establishing a party the people can trust and identify with.

RACE-TROUBLED SELMA: 10-YEAR RECORD GOOD

Mr. ALLEN. Mr. President, several weeks ago the national press published long articles recounting the tragic events that took place 10 years ago at Selma, Ala.

But Pulp & Paper, a national magazine devoted to the paper industry, was shedding a different light and an almost completely ignored point of view on what was really happening in Selma in May 1965, and today.

In its May 1975, issue this magazine published an editorial "Race-Troubled Selma: 10-Year Record Good," written by senior editor Albert W. Wilson.

I commend this article to the reading of all, and I ask unanimous consent that it be printed in the RECORD.

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

RACE-TROUBLED SELMA: 10-YEAR RECORD GOOD

(By Albert W. Wilson)

MOUNT DORA, FLA.—This is the 10th anniversary of the "trouble" at Selma, Ala. It led to the Voting Rights Bill of 1965. On July 2 of that year, Title 7 of the Civil Rights Bill went into effect to require equality in hiring. But long before that, color or race ceased to be a criterion for jobs in this industry. TV cameras were on hand to record the march led by Dr. King to Selma's Edmund Pettis Bridge in defiance of a sheriff who has long since disappeared somewhere in the South. It was an impressive, symbolic and even poignant event for blacks, understandably. But also important to the black community of Selma, 56% of its 28,000 population, and to that entire Alabama countryside was the selection a few months earlier of the site for a $30-million (pre-inflation) kraft pulp mill 14 miles east of that bridge.

Instead of welcoming the mill, the director of the National Council of Churches Commission on Religion & Race condemned the choice of Selma by Hammermill Paper Co. as "an affront" to the entire population of the U.S. He urged all denominations to boycott Hammermill paper. This kind of screwball thinking, dignified in newspaper headlines, could hardly improve the public image of our churches. But they survived such stupidity. There were milder protests by NAACP and CORE, now forgotten. Hammermill replied that their company, started on a shoestring in the 1890s by German immigrant brothers at Erie, Pa., has never made any distinction of race, color or creed. The Behrends went out with pick and shovel themselves and start building the Erie mill and said if they had known what it would cost, they never would have built it. They went on to introduce the first profit-sharing and first paid vacations in industry. They knew every worker by name.

END OF LOW-WAGE ERA IN SOUTH

Marquis Childs, a Washington columnist, wrote that Hammermill and other paper companies were moving South ten years ago because of low wages and were "creating havoc in the North." Almost the day he wrote this, Hammermill announced a multimillion-dollar expansion of its mill at Erie. Paper succeeded cotton as "king" in the South and that was the end of the low-wage era. Pulp and paper mill wages in the South are 20% to 25% higher than mills elsewhere in the country, except Pacific Coast states which have a 5% edge.

There were no experienced workers for Alabama's seven new mills which required mostly technical skills. Yet today 15% of the mill workers and 22% of woods workers on 300,000 acres owned and leased by Hammermill are blacks. Among those blacks are a dryer crew supervisor, another top mill operator and four black mechanics earning $7 an hour. Others earn $6.70 an hour. Among blacks are a turbine operator, two crane operators, security men, a female instrument mechanic and female accounting secretary. A black recovery operator left recently for another job.

MILLS HELP ALABAMA'S POOR COUNTIES

This isn't the whole story. When an NBC camera team arrived recently to do a "Selma ten years later" story, black townsfolk told them "go talk to 'Oz.' I first knew O. A. "Oz" Marrow years ago when he was production manager of the then-new Riegel Carolina mill. He came to Selma ten years ago as division manager. He and the entire Hammermill organization earned the profound respect of the black community and influenced upgrading of two smaller plants and other businesses. Union Camp and neighbor mills improved life in Alabama's poor communities. I saw what Angus "Bud" Gardner, president of MacMillan Bloedel Inc., did for Wilcox county, which had been "the poorest county in all United States."

"You just don't say no race or color counts and then don't do it," "Oz" Marrow told me. "Right from the start you cooperate with black leaders and we have earned their respect as much as any industry in the country." I think it is interesting that three past Hammermill presidents I have known are all still part of this—Norman Wilson, 97 and sharp as ever, Don Leslie and John DeVitt. With current president, A. F. Duval, they can be proud of this record at Selma.

OUR POSITION IN THE MIDDLE EAST

Mr. PACKWOOD. Mr. President, the United States is now engaged in a reassessment of its position in the Middle East conflict, and there are some in this country—including well known voices in the political and opinion-molding sectors— who would argue that it should be a total reassessment of our traditional sympathy for, and commitment to, the State of Israel.

Arab governments and Arab apologists in this country have already initiated a massive propaganda campaign seeking to drive a wedge between the United States and Israel by falsely blaming Israel for the recent breakdown in the Kissinger negotiations. The United States has temporarily halted military aid to Israel while its leaders deliberate on the matter. So this, indeed, may be the time for a reexamination of the situation in the Middle East and of the interests and commitments of the United States in that part of the world. We need to be reminded, I think, of the basic issues—although there is every indication in the polls and in the press that the American people have already done some reassessing of their own: support for Israel is at an all-time high.

Let us first examine what really happened in the recent fruitless negotiation attempts. At the outset, the United States, Israel and Egypt accepted the policy of a quid pro quo—that is, Israeli withdrawal from territory in return for Egyptian political concessions, the United States understood, and accepted, that the depth of Israeli withdrawal would be dependent upon the extent of Egypt's willingness to make such concessions.

Israel offered to give up the strategic Mitla and Gidi passes and the Abu Rodeis oil fields, which currently supply half of the Israeli oil consumption, in return for an Egyptian statement of nonbelligerency—that is, an agreement to end the state of war between the two countries. Acknowledging that the internal dynamics of Arab politics might make this difficult for Egypt to do, Israel agreed to accept, instead, the "elements" of nonbelligerency without a formal declaration.

These elements would have included an end to the Arab economic boycott and political propaganda warfare, a disavowal of terrorist methods, and direct bi-

lateral agreements on Suez Canal navigation. Israel also asked that the duration of the agreement be sufficient to "allow positive processes to start in the direction of peace."

Egypt not only refused to consider the concept of a statement of nonbelligerency but also rejected all of the Israeli proposals on the "elements" of nonbelligerency. On the duration of an accord, the Egyptians indicated they were not willing to be committed beyond 1 year. When Israel made still further attempts at compromise—offering certain withdrawals in return for "some" elements of nonbelligerency—the Egyptians totally refused, demanding still greater Israeli pullbacks while offering no commitment to peace for Israel. At this point, the Secretary of State suspended his negotiating efforts. Israel had repeatedly demonstrated that she was open to compromise on the various proposals advanced during these efforts, while at no time had Egypt offered to make any compromise whatever. If anything, the Egyptian position had hardened during the negotiations.

It should be borne in mind that the basis of any talks between Israel and the Arab States is U.N. Security Council Resolution 338, which requires "negotiations * * * aimed at establishing a just and durable peace." Egypt has ignored those words, avoided the very mention of "durable peace," and sought only a transitory military disengagement, reserving the option of war.

Still more fundamental and specific is U.N. Resolution 242, which calls for Israeli withdrawals to what eventually are to be "secure and recognized boundaries" but also for a "termination of all claims and states of belligerency" and a respect for the sovereignty of all states in the area. While demanding Israeli territorial concessions on the basis of Resolution 242, the Arabs continue to ignore their own responsibilities under it—as they did as far back as 1968, when the late President Nasser, while claiming to accept the resolution, stated:

> Conclusion of peace with Israeli is impossible, and I cannot do it.

Nasser's successor, Anwar Sadat, seems to be of a similar mind. When the Secretary of State's "shuttle" diplomacy came to an end on March 22, however, Sadat had a victory that had long eluded Nasser. Sadat saw the chance to exploit a U.S. position apparently weakened by the domestic recession and the debacle in Indochina, to pressure the United States into forcing Israel to make substantial unilateral concessions—or, should Israel not capitulate, to make the Jewish state appear "inflexible" and to drive a wedge between Washington and Jerusalem.

When President Ford subsequently suggested that Israel had indeed been inflexible, and the administration announced the "reassessment" and the suspension of aid shipments, it appeared that Sadat had calculated well. True, Secretary Kissinger has denied that the reassessment reflects a desire "to alter any particular policy," and he has carefully pointed out that the United States "remains committed to the survival of Israel"—lest Sadat tragically miscalculate his success. But there is little doubt that the total administration reaction was designed to pressure the Israelis into an even greater "flexibility."

Does this not make one question the very meaning of words? Who has been inflexible? Who has been intransigent? The fact is that the only limit Israel has thus far placed on her willingness to compromise is that she will not weaken her national security to reach temporary disengagements with those who adamantly refuse to renounce their sworn intention of destroying her.

Sadat himself said in an interview just before the breakdown of the Kissinger mission that the Israelis were in a corner. He added:

> Right is on our side. We have the military power, the strength of Arab solidarity and its various means. We have the upper hand.

Commenting upon that statement, in an editorial published on April 1, the St. Louis Globe Democrat said:

> These are not the words of a man sincerely seeking peace. They confirm the belief that Egypt was trying to get Israel to make another substantial military pullback in return for not much of anything on Egypt's part.

It is significant that this is typical of the enlightened reaction of the American press on the breakdown of negotiations. To cite one or two more editorials: The New York Post, on March 24, commented that:

> Kissinger could not even extract from Egypt an unequivocal forthright declaration of non-belligerency in return for territorial retreat by Israel.

The Houston Post stated:

> . . . Neither the Palestine Liberation Organization nor the Arab neighbors grant Israel's right to exist behind guaranteed borders. The Israelis must feel that if sooner or later they are going to have to fight to the death, they should keep the best margin of defense they can. To ask for a promise of no more war seems a fair request in exchange for lands they hold as that extra margin.

In an editorial on March 27, the Newark Star Ledger wrote:

> Mr. Sadat, who had been pictured as amenable to compromise, in the end remained unyielding.

A March 26 editorial in the Long Island Press puts both the stalemate and the basic issues in clear perspective. It states, in part:

> Throughout eight years of negotiations, Israel has had but one aim, a guarantee of peaceful coexistence. Yet the Arab states have refused even to talk directly with Israel, necessitating Dr. Kissinger's many missions. . . .
>
> Yet we are disturbed by the tone of the statement announcing "total reassessment" of U.S. policy. Despite the pledge of continuing American commitment to the survival of Israel, the veiled threat implicit in the statement could not be missed.
>
> There are indications Dr. Kissinger blames Israeli inflexibility as a contributory factor in the breakdown of his mission. But inflexibility on a simple pledge of non-belligerency is reasonable. What every Israeli knows—and Dr. Kissinger, too—is that Israel cannot afford to lose a war; the first would be the last. Thus, its insistence on peace assurances—for whatever they are worth—is literally a matter of life and death.

The American press, which constantly reassesses the world situation, seems cognizant of Israel's position and its desperate need for continued military aid. The American people themselves seem equally aware of this. Louis Harris reported the latest Harris Poll findings in the New York Times magazine of April 6, and he wrote,

> A rather lopsided 66 to 24 percent majority favors sending Israel what it needs in the way of military hardware. . . . This is all the more remarkable in view of the decisive 65 to 22 percent majority who oppose this country's giving military aid in general. . . .

In view of this, let us indeed reasses the reasons for the productive 27-year friendship and bond of support between the United States and Israel.

The United States is involved in the Middle East largely because U.S. survival is dependent upon maintaining the global balance of power. Our primary aim in that crucially strategic region is to prevent the Soviet Union from gaining a decisive military and geopolitical advantage there. The fact is that the Soviets are engaged in a persistent and aggressive attempt to gain control in the region. The main ingredient of Soviet strategy is to provoke, manipulate, and exploit the Arab-Israel conflicts in such a way as to drive out Western, primarily American, influence.

The United States seeks peace and political stability in the Middle East while the Soviets are bent on fomenting instability and conflict, as in 1967 and again in 1973, when they encouraged their client Arab States to provoke or attack the Israelis. If the Soviet Union was to gain hegemony in the Middle East, it would have incalculable consequences, not only in that region itself, but also in Europe and Africa.

The Soviets could hope to gain decisive influence or control in the Mediterranean and Persian Gulf areas, in the world's richest oil region, and in the land mass of north Africa. They could directly threaten Turkey and Iran and even the "soft underbelly" of Europe. The next step could be the "Finlandization" of Europe and a virtual dismantling of NATO.

The Soviets have not been passive in such hopes. In the Yom Kippur war, they provided the Arabs with armaments, trained the Arab fighting forces, planned the Arab military strategy, orchestrated all Arab efforts before the Security Council of the United Nations, and openly urged all Arab States to plunge into the conflict. When the Israelis finally turned the tide of the battle, Moscow's threat of direct intervention prompted the United States to initiate the worldwide alert of its Armed Forces in a strategic countermove to block direct Soviet action against Israel. So blatent was the Soviet role in the Arab attack of 1973 that Secretary Kissinger had to assert on October 8 that:

> We shall resist aggressive foreign policies. Détente cannot survive irresponsibility in any area, including the Middle East.

Israel, though geographically small, has proven itself a remarkable friend and ally. Its stake in preventing Soviet hegemony in the Middle East is as great as ours. Israel's high caliber political and military leadership has proven itself determined, resourceful, and courageous. Its people, industrious, educated, and highly motivated, are prepared to make immense sacrifices to protect their national security. A stable, democratic, and progressive society, Israel is precisely the kind of ally the United States needs in pursuing its objectives. In this, it surely differs from the unstable and undemocratic regimes of Southeast Asia for which we spilled so much of our blood over the years. Israel has never asked that a single American soldier disembark upon its soil.

Beyond the question of power relationships and security, the United States has stakes in Israel's survival which flow from the essence of what America stands for. Throughout our Nation's history, it has had an abiding concern for nurturing freedom among the peoples of the world. We share with Israel a common adherence to democratic principles, to principles of justice and humanism, to a common moral heritage with roots in Western political philosophy and in the Judaeo-Christian tradition. We also share with Israel a parallel history as havens of refuge for the persecuted and the oppressed. These intangible but vital factors are at the root of the affinity between our two peoples, and they motivate most Americans to place a high value on the significance and role of Israel among the nations. When Israel is threatened, all of the things America stands for are threatened.

Let these thoughts be reviewed in any "reassessment" of our position in the Middle East.

CHILD AND FAMILY SERVICES

Mr. MONDALE. Mr. President, as Senators know, the Senate Subcommittee on Children and Youth, which I am privileged to chair, and the House Select Committee on Education, ably chaired by Representative BRADEMAS, have held seven joint Senate House hearings on S. 626 and H.R. 2966, the Child and Family Services Acts.

We have scheduled our final 4 days of joint hearings on this legislation for June 5, 16, 17, and 19.

Recently, National Public Radio presented an award-winning "Options on Education" series, including a show concerning this legislation and our hearings entitled, "Who Cares for Children?"

I have had an opportunity to review the transcript of that program. It includes a thoughtful description and discussion of the legislation, with statements from a number of individuals who have testified at our hearings.

So that this information may be available to my colleagues and interested members of the public, I ask unanimous consent that the transcript of "Who Cares for Children" be printed in the RECORD.

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

WHO CARES FOR CHILDREN?

(A Transcript of "Options on Education," March 14, 1975)

Key:

A: Announcer Mike Waters.

JM: Moderator John Merrow.

C: Various "latch key" children.

WP: William Pierce, Child Welfare League.

AC: Audrey Colom, Vice-Chairwoman, National Women's Political Caucus.

CB: Carol Burris, President of Women's Lobby.

CHMN: Alphonzo Bell, U.S. Representative (R.-Calif.)

AF: Arvonne Fraser, Women's Equity Action League.

TS: Tutti Sherlock, Olmstead County Council for Coordinated Child Care, Rochester, Minnesota.

EK: Erline Kendall, Nashville, Tennessee.

JG: James Gallagher, Frank Porter Graham Child Development Center, University of North Carolina.

SJ: Sid Johnson, Staff Director, Senate Subcommittee on Children and Youth.

WS: Wayne Smith, National Association for Child Development and Education.

A: From National Public Radio in Washington, I'm Mike Waters with "Options on Education."

(Music: Who really cares? Who really cares?)

C: And I sometimes do the house. Clean up. And do sometimes the lunch for the . . .

JM: Now, how do you get into the house after school?

C: Well, I have the keys to get into the house. And we all of us have different keys—my sister, and my other sister and I and my mother and my father.

JM: Where is your father?

C: He works with my mother in the Watergate, too.

JM: How old are you?

C: I'm 11.

JM: And how many kids are there in the family?

C: Four.

Second Child: I have to use the keys to go out and in.

JM: Are you afraid of losing them?

C: Yep.

JM: Does your mother work?

C: Yes.

JM: What kind of work does she do?

C: Day care center.

JM: What about your dad? Does your dad live at home?

C: Well, my mother and my father got divorced.

JM: So you're pretty much in charge for a couple of hours?

C: Yeah.

JM: Now, what about your small brother during the day?

Third child: I go to a school and take them from the school, all of us go . . .

A: Those kids are latch key children. And there are millions more like them in the country. They need some sort of supervised child care. And it isn't available. It's a mistake to think that day care is just for infants and pre-school children. Most kids without care are in school, as you'll learn on this "Options on Education" program, which we're calling, "Who Cares for Children?"

(Music).

A: Let's begin with the statistics. The Child Welfare League testified on Capitol Hill that over 32 million children under 18 need child care. Now, right now there are only 4.3 million day care slots available. And only 1 million of these slots are licensed. That means that a lot of kids are getting unlicensed day care. And a lot more aren't getting any care at all. 25 million children out of the total 32 million are already in school. They need part-time adult supervision as a supplement to school. The remaining 7 million are infants or pre-schoolers. The lion's share of kids needing day care, 26 million, are the children of working mothers. In some cases, the mother may have to work. She may be the only parent in the home. In many cases, the mother has her own career—as a lawyer, architect, doctor or nurse. Another 1.2 million children have a parent at home, but that parent is handicapped or too sick to look after the children. 700,000 children have working fathers as their only parent. And another 4 million children are themselves handicapped and need special care. It adds up to 32 million children. Our reporter, John Merrow, of that Institute for Educational Leadership, asked William Pierce, the Child Welfare League's lobbyist, just how accurate the statistics were.

JM: Can you back those up? Is that data pretty good?

WP: Well, we think that in this case the burden of proof is on those who say the need for child care is not there. It's been 11 years since the Federal government, which spends hundreds of millions of dollars on surveys and data-gathering extravaganzas, has bothered to find out what the real child care arrangements are in this country. And, we don't know what the reason is, but we do know that they just haven't gathered the data. We think that if they gathered the data, and it could be relatively easily done, that they would find results something like what we estimate. Since they have not found out where the children are, we have had to extrapolate from the data that does exist. We say that our data is as good as can be "guesstimated." And if they think our data is too high, we invite them, we encourage them, we beg them, to conduct their own survey. Some of those surveys are very difficult to do. The only way that you can do some of those surveys is literally station people on street corners to find out where children go. There was an interesting survey done in London recently, and that's the only way they were able to find out. They recruited teams of social workers who stood on the street corners starting at 5 o'clock in the morning, and tracked parents. If they left their house and trundled off down the street with a baby carriage, and the baby carriage and the baby stayed somewhere, they had discovered a child care arrangement. They found that there were literally thousands and thousands of babies cared for in the most frightening and damaging situations. Not even the last survey done in the United States was as imaginatively done as that one done in England. We need another survey.

JM: Tell me about the available number of day care slots, or whatever the appropriate term is, and then let's go on after that to talk about the kinds of ways children are actually cared for in this country.

WP: All right. First of all, we know that there's roughly a million licensed day care slots in this country.

JM: Who licenses day care?

WP: Most day care in the States is licensed by state departments of welfare. Day care can also be licensed by health departments. In some states, the health department is the licensing agent, as in Kansas, and they do a very fine job. In other places, it's departments of education. Generally, day care has been seen to be a welfare function and, therefore, the licensing function has been performed by the welfare department.

JM: The figures we're working with right now say there is a need for roughly 32–33 million, and there are only a million positions available?

WP: There are only a million *licensed*. That means that if we want to be fair in talking about supply we have to try and estimate what the number of unlicensed day care places are. Most of the unlicensed day care places, according to all of the studies that we have available (one funded by the Federal government and conducted by the Westat Corporation, another done by the National Council of Jewish Women and published in a

report called *Windows on Day Care*), are of extremely poor quality because, frankly, most unlicensed day care, like most unlicensed restaurants, people would rather function above ground because it's more profitable, and they can attract better trade and charge better prices. If someone is selling, or licensing anything on the sly, it usually is that their product is questionable. About 95% of all of the unlicensed care according to the estimates is bad. Five percent is simply run by good people, or people who for one reason or another cannot comply with the eccentricities of the licensing law in a jurisdiction or two. We estimate that the unlicensed, illegal, underground (however you care to call it) capacity in this country, and this is extrapolating from the studies that have been taken, is about 3.3 million places. So, if you add those with the licensed places, you come up with about four or four-and-a-half million places. Most of those can't be used, though. An awful lot of the licensed day care places and a lot of most of the unlicensed day care places are so unsafe and hazardous that we wouldn't put our *dog* there, let alone our children. So we're left with a net of about a million places that can be used. Subtract the million from the 32.5 million needed, and you've got a net of 31 million children who, we say, need care, and you've got to create the spaces to care for them.

JM: I'm struck by the bloodless, colorless language of "licensed" vs. "unlicensed." Then you went on to say that some were unsafe, that you wouldn't put your dog there. What do you mean? What goes on in a place like that?

WP: Well, in an unlicensed day care facility, and it may be a family day care home, or a group day care home, or a day care center—in an unlicensed facility you can bet that, first of all, there's not enough space so that the children can have the freedom of activity that they need. They're either penned up, or they're seated in front of a television set. That's the usual choice. They also, quite frankly, are trying to operate a business illegally. They're trying to avoid taxes, they're trying to avoid land use and zoning codes. As a result, in most of the unlicensed situations, the children have to be placed in very unobtrusive situations. In the house, very little of the house will be changed. If it's in a center, the center will be located in a building which is unsuitable. If it's . . . no matter where it is, it's very unlikely that the children will be playing outside, because a lot of noisy kids will attract the attention of those who say, "Why are 15 or 20 kids playing in that house, or next to that warehouse? They must have something going on there. It's not a school. It must be a day care center. And maybe the children shouldn't be there." The other thing is that if you simply look at the statistics, from the studies that we do have, of what is in an unlicensed day care center, you'll find that there's not enough cots for the kids to take naps, there's not enough food for them to eat, there tend to be very few toys, if any at all.

JM: Those are features of licensed day care centers, then?

WP: Those are features of unlicensed day care centers.

JM: No, but *licensed* day care centers would have enough cots, would have enough toys, and so on and so forth?

WP: Most licensed day care centers, yes. The problem with licensing anything is that you have the corruptibility of the licensing official which comes into play, and I think anyone would be naive to think licensing officials cannot be corrupted, let's say, in terms of building code enforcement, and zoning, and fire and hospitals and everything else, that one or another of the licensing officials engaged in children's facilities cannot also be corrupted. But a good licensing program gets around that by rotating licensing people.

JM: Let's go back to our numbers again. You said there are four-and-a-half million available slots, licensed and unlicensed. We began with a figure of between 32–33 million. I hope I'm remembering the figures correctly. That leaves an awful lot of children who, by your figures anyway, need some kind of day care, but there are no positions. What happens to those kids? How are those kids—that 28 million, whatever the number would be—how are those kids being cared for today?

WP: Well, we know from looking at the statistics gathered by the Department of Health, Education and Welfare for the children of women on welfare, children in families receiving aid to families with dependent children, AFDC kids, that a great number of those kids are looking after themselves, or that the parents are claiming to look after them while they are at work. We think that this is probably not just limited to welfare children. I happen to live in a fairly wealthy suburban county, Montgomery County, Maryland, and surveys of the situation of children in Montgomery County are not much different from the surveys that HEW has reported in terms of AFDC children. When people work, if they don't have day care available—and we know from the statistics that they don't—there's no magic. They simply have to rely on the children caring for themselves. These are children who look after themselves . . . latch key children . . . who, if they're ill, or if school is out . . . we're talking now about six hours a day, every day, and we're talking about 10–12 hours a day whenever school is out, or they're ill or they have no public school to go to.

JM: So they're taking care of themselves. They're without adult supervision. They may be at home, they may be out on the streets, but essentially they're . . . and you call them latch key children—what does that mean?

WP: Well, *latch key child* is the term used to describe the child who . . . most parents have to lock the door, so they take the house key and string it around the child's neck and say, "No matter what, don't lose your key, and if worst comes to worst, come home, unlock the door and slam it behind you, and be good." That's all.

JM: You also said that some working mothers take care of their kids by telephone. I don't understand that.

WP: Well, if the child is at home—and I must admit there are people that I know who are professional child care people who do the same thing—if there's no school-age day care available, what they do is they know that their child should be home from school about 3:30 or 3:45, and they simply sit at their desk and call every five minutes until their child answers the phone. They give the child . . . they ask the child how the day went at school. They say, "Be sure and have a snack. Don't watch TV. Do your homework. Do your chores. I hope to see you at 6 or 6:30." And they may call the child to check to make sure that the child is in the home every 15 or 20 minutes or so.

JM: I'm sure there are a lot of listeners reacting to that right now in this way: "That mother belongs at home. She shouldn't be calling from her office or from wherever she works to find out how her kid is. It's just wrong."

WP: Well, what's wrong is that we have a policy in the United States, as do many other industrial countries, that forces both the father and the mother to leave the home and work outside the home in order to survive economically. What's wrong is that we don't pay people to do the thing that we acknowledge as a valuable service, and that is to care for their children in their own home. Our welfare policy is the same sort of thing. We say to a welfare mother, "If you're just in the home caring for your own three children, it doesn't count. You've got to contribute to the gross national product." We say, on the other hand, that if a welfare mother leaves her home and cares for someone else's home and three children, it's terrific. She's working. And not only that, the woman who pays her $400 a month can deduct it from her income tax. The fact is that if a welfare mother or any other mother, or man for that matter, is performing real services to society, they're worth $400 a month in someone else's home caring for three kids. if they're caring for three kids, they're also performing real work. Some nations have recognized that by counting the work done by the household—and it may be the male or the female—in the gross national product—the so-called mother's wage or householder's wage approach. We haven't recognized that here. On the contrary, we have taken the most vulnerable people in our society, those who are poorest and who have their children to care for, and forced them out of the work place.

C: Yeah.

JM: Tell me about the work she does.

C: About law enforcement and crime, and stuff like that.

JM: How about your Dad? Your Dad is not at home with you?

C: No. He's in the service; he's in Thailand.

Second Child: I practice my piano and I read and I do my homework.

JM: How do you get into the house?

C: My sister wears the keys around her neck.

JM: Well, now does your Mom call up to find out what you're doing?

C: No. We call her.

JM: After school, what do you do?

Third Child: Play basketball or football. Then, after that, probably get some soda, something to eat, and go home. That's about it.

JM: Now, is anyone at home after school?

C: No.

JM: Do you have brothers and sisters?

Fourth Child: Yeah.

JM: Now, who takes care of them?

C: Me. I tell them what to do . . .

A: It's important to make some distinctions among types of day care. Whether it's called center care or home or family care depends on the number of kids involved. Six or more kids and the day care facility is called a center. Under six kids and it's family care or home care. Day care can be non-profit or for-profit. And some for-profit day care is franchised, much as fast food chains and motels are. Most licensed day care is run for profit, but most of the day care facilities are not even licensed. Licensing requirements vary in rigor and enforcement, but the regulations usually spell out minimums for square feet per children, ventilation, bathrooms and available toys, among other things. But distinctions aside, there are many more kids than there are places and day care facilities. Right now, three Congressional Subcommittees are holding joint hearings on day care legislation. Actually, the Congress passed a similar bill in 1972, but former President Nixon vetoed it. Today, the bill's passage seems inevitable. But there are unanswered questions. Congressional hearings are supposed to help answer questions, so let's listen to part of the March 12th Joint House-Senate Hearing. On that day, several women's groups testified in favor of the bill. The hearings, which began in late February, will go on into April.

AC: Thank you very much, Mr. Chairman. I'm pleased to be here today to discuss the Child and Family Services Legislation. I am a parent of a pre-school child currently in day care, and Vice-Chairwoman of the National Women's Political Caucus. I would, at this point, like to speak up for the small percentage of women who work out of choice, not necessity. They and their children, too, deserve the highest quality care available. I

am pleased that the Senate bill provides some space on a sliding fee basis in child care programs for families above the Bureau of Labor statistics lower living standards budget. I know that these families desire for their children the rich and varied experiences that the best child care programs offer, and they are prepared to pay for these programs. To those people who bristle at the mention of day care and equate it with irresponsible or neglectful parents I would like to say that good (not custodial) day care is quality education. The children are learning about themselves, their playmates, their environment, in a healthy and a happy way. They are growing and developing as a result of their experience in day care programs. Now, I would like to take just a couple of minutes to speak about specific provisions in the bill. I am distressed that for the first year funds are authorized only for planning, training and technical assistance. While I don't dispute that ample planning must be done, I am surprised that no money is simultaneously available for already existing child care programs and family service programs—especially those suffering from diminishing foundation or local government support. I can think of several child care programs within walking distance of this very hearing room that might close down soon because their funding is unavailable or unstable. If this bill passes as drafted, I can envision a situation where well-paid planners are scouring the country determining areas of greatest needs while child care programs in those very areas are cutting back or closing down altogether. Children must be the primary beneficiaries of this money.

CB: I think there are three things that my statement really touches upon. The first is the whole question of why it is that we have the large number of households headed by women, the large number of women in the work force that are completely ignored. This bill passed first in 1971 and was vetoed, and these children are still with us, and they're still not getting any care, and we're sitting here once again, all of us who agree on the need and all of us who agree that there is a need and that there ought to be funding are sitting down once again, and I notice that none of the people who disagree with us are here. And we're all discussing once again this problem. And, in the meantime, I was the mother of a child who was a preschooler when this bill first passed. I'm now the mother of a second-grader and, if we keep on at this pace, I'm going to be the grandmother of somebody who needs day care. And we have a continual problem, it seems to me, in the ideas at HEW about implementing this bill and a lot of the informed opposition comes from there and, frankly, if the Secretary of HEW were a woman, she would not announce that she could not do her job and then expect that was a good and sufficient reason to not take care of the children who need day care. Any woman who goes around announcing that she can't do her job is fired, and I think that it's a poor excuse that the Secretary of HEW feels that he should be able to come before this committee and continuously announce that he's unable to administer a program to take care of children and then feel that that's good and sufficient reason not to enact one. It's probably a good and sufficient reason to change Secretaries, but not a good and sufficient reason to leave children alone. (Laughter) The other thing that I think is really important in discussing child care is the whole question of why this problem can continuously be put underneath, and why those of us who are middle-income parents are continuously sort of left alone. I think when there are no services, which is the current case, there is no way to buy the kinds of services that are available for Audrey's daughter, for my son, because they just don't exist. And my son is in an after-school program with 15 other children, and the competition to get into these programs is far greater than it will ever be to get him into Harvard or Yale, because they have about 1,000 spaces for their freshman class, not 15 spaces. And you cannot tell me that poor people need spaces more than anybody else does because there just are no spaces that exist, so the need is equally great for all of us because we just don't have any commitment publicly to take care of our children. And we can't now cut back because of a President who's left the White House—our demands for the children that we know are out there. If we do, I think . . . as someone who works on women's rights, I have to say that I think it could only exist because the Congress of the United States thinks that women take care of children, that's a free service and there's no point in replacing a free service with one that costs any money at all, and it's really exploiting women as well as exploiting all the children that they primarily take care of.

CHMN: Thank you, Ms. Burris, for a very effective statement. I'm wondering then . . . you believe that there should be no problem about the budget, that it should get top priority and that it doesn't make any difference whether you're near-poor or poor, there's nobody that should get priority. They should all have this funding. What type of money are you thinking about? What . . . in other words, you obviously know the poor aren't going to be able to pay. The near-poor probably not either, but there are going to be some that are of the middle class that might have to pay. No, what would you think would be a . . .

CB: If you look at our constituency as people involved in women's rights, the median income for women is literally half of what it is for men. The median income for women is around $5,000. For white men, it's around $10,000 and for black men it's around $3,000. Any one of us, by finding a man, you know, a live, walking-around man, doubles our income and that is, without doubt, you know, the reason so many female-headed households (and so you can see, I'll just do a list of them so that you can see), so many female-headed households live in poverty. So that if you're talking about our constituency, those of us at this table, if you take the social service . . . the Title 20 guidelines . . . there is no question in my mind that all working women, with the exception of maybe one or two percent at the very top, are going to easily be able to qualify for free care. And so, then, the question of deciding which women is going to get it is one that I don't see that I have to make. I just think that it's my responsibility to tell this committee of the need.

CHMN: Of course, there are the questions that come right back to us. We're going to have to make it if you're not going to. So, that's the purpose of my question because there's just so much money around.

CB: All right, I think I would put the top at whatever the Title 20 thing is: In New York, I think . .

CHMN: I'm sorry. I didn't hear you.

CB: The Title 20 guidelines are 115% of need at the top. That comes out to about 15,000 in New York City. That's well over what any woman on the average is going to make. Those would fit without our guidelines of having to explain the need and have as the first set of need those women who are heads of households. I think from there you need some sort of sliding scale that, in the end, does not really have a tremendous burden on those families where two people work if they work at middle-class jobs—the people that Audrey said are those people who work out of choice. The other problems is that we do not have tax credits or an easy access to the tax deductions that are available for those of us who pay for child care. And so if it were a credit system because many more people file a short form than file a long form. Or if it were a system of credit even for home care, which it isn't now, you would at least be able to give me the same kind of deductions for my business expense (because I can't be here today without child care) that you give people who buy business lunches. I really resent paying for martinis and not paying for child care. And I think that if you had it as a system without a . . .

AF: . . . I'll just submit my statement and go to this question of cost. This is a good bill, I think, because it includes lots of child care services that are needed for children whether they're in a day care institution or whether they're cared for at home by their mothers. And the problem, I think, that we get into is that we almost pat ourselves on the back as middle-class parents about how much it cost to raise a child, on the one hand, and we say, "Look, we put out this much money to raise a child." On the other hand, if we do it publicly and put it under the guise of day care or child care, we think it's outrageous. Somehow, we've got to get our philosophies together. It seems to me if we talk about social services for all children as day care, day care is going to be equated as something way too expensive and never passed. On the other hand, if we tell the public that we are providing not only day care for those children who need it, but social services, health care, medical care, and so on, for all children, we are saving the taxpayers, ultimately, dollars, though it may look expensive now. We are taking care of children, and I think we ought to look at this as a child care bill, not as something that just helps mothers. It has always seemed to me that most children have two parents, one male and one female, and that the whole burden of the care of that child should not be just on the female and this looked at as a women's bill. This is a children's bill.

Chmn: Thank you, Ms. Fraser. I want to commend you, also, for your very cogent remarks. It's a great pleasure to have the wife of Congressman Don Fraser before the Committee.

AF: And the mother of a number of children, and I consider myself a day care worker.

Chmn: You said on page two of your statement that such schools should be opened to all children regardless of financial standing of parents. Do you feel that, even with the strictures on the budget, they should be open to all parents? Do you feel exactly like Mrs. Burris?

TS: Most assuredly. Absolutely. Our public schools are open to all children. I feel that early childhood development must be open to all children. I think that the statement that follows it clarifies one of the reasons I said that, and is a very reasonable one. And one that shows, in my county, anyway, why Head Start isn't working, and that is the fact that Head Start operates in a ghetto. It's keeping the poor children together and giving them very limited kinds of educational opportunities, and I would much rather see children of all economic backgrounds in the same classroom doing the same kinds of things. I think that this kind of thing . . .

EK: . . . half of the children in that center were under Title 4A, which meant that they were at the welfare level. But we did not want to see welfare families isolated. They're isolated already in their housing and many other ways. So 50% of the children in this center were on the sliding fee scale. Some of those families pay five dollars a week, some of them pay $25 a week, but they pay according to what they could afford. That center closed within 10 months. Lots of people told us that it couldn't be done, and they were right. One of the things I like about the Child and Family Services Bill is that it

looks like you're going to try to do what couldn't be done. And that is, provide not only for those families who are at the welfare level, but provide for those families who are above that level and who are the working poor. I'm very concerned when I see families like a mother that I know, and this is the third time she and I have talked about care for her pre-schooler. She is a certified teacher. She has to work. Her second husband is a student. He has a part-time job. They are willing to pay, and they want good care for their son. But I don't have any place to tell her to go. She and I talked last week and I found myself withdrawing from the conversation. It was too painful for me and for her, too. I think about an infant who came to our center. His mother is white and unmarried. She was a secretary at the time he was born. Her family was not willing to give her very much emotional or financial support during that period. And we really had to mother the mother. She almost gave up her baby. She considered giving him up for adoption. She considered abandoning him without the adoptive process. But we referred her to counseling. We took him for shots. We bathed him. We fed him. We sent special formula home with him because she was not willing to pay, or really able to pay for that at that time. And, through the support services that she received, she and her baby were able to become a family. And it looks to me like the bill that you're considering will be supportive of families. And I think that's important. I'm concerned about a mother who is a truck driver within our city, and she's desperate for care for her three-month-old son. For the last several weeks, she has carried him in the cab of her truck, but she says she can't keep doing that. We need a place for her baby. Those are some of the families that I know, and those are some of the reasons I have come to testify. Some of the particular parts of this bill that I think are important are these. As I have worked in a franchised center and in a non-profit center and in a Title 4A center, some of the needs for day care that I'm particularly concerned about are covered in your bill. And I'm very pleased to see the variety of prime sponsors. I'm very much concerned that no one sponsor be given the whole package. Our public schools have certainly not fulfilled the needs of all of our children. And then I am pleased to see the commitment to variety and innovation in programming.

CHMN: Mr. Gallagher, I have a couple of questions for you. Possibly the most important question that I can ask pertains to the program delivery system. In your opinion, what specific roles would the public schools have in any legislation we develop?

JG: I would see that over the long run the public schools will become more and more involved, but not as they're currently structured. I would see a great change take place in the primary grades and the earlier education of these youngsters, coming from a greater recognition of the overall comprehensive needs of the child. The child has health needs, has social needs. The family needs to be more critically involved in these kinds of programs. The schools as they are now structured would have a difficult time accepting this, but I think the schools can restructure themselves and I think it would be a great benefit to everybody if they did it in concert with the kind of provisions that are in this bill. I would not want to get this bill entangled in a professional battle between who owns this territory.

A: A key term in the legislation under study is "prime sponsor"—the direct link to the Federal agency giving out the money. Prime sponsors will be able to subcontract for services with other agencies in groups, but the power of the purse will be with the prime sponsors. Albert Shanker, the powerful head of the American Federation of Teachers, wants the public schools to be the only prime sponsor. Shanker told John Merrow that the public schools have two advantages—they already have the support of the middle class, and they have an established structure for governance. Shanker added that having all sorts of sponsors would lead to conflict. Those who want a variety of sponsors, Shanker said, are really trying to set up an alternate school system to rival the public schools. Shanker's call for public school monopoly has aroused strong opposition. And our sources on Capitol Hill indicate that, despite Mr. Shanker, or perhaps because of him, a public school monopoly of day care is impossible. Of course, everyone wants to be the prime sponsor. Sid Johnson is the Staff Director of Senator Walter Mondale's Subcommittee on Children and Youth, and he talked with John Merrow about the possibility that profit-makers would be eligible to be prime sponsors.

JM: It sounds as if Senator Mondale and those people who have been drafting the bill are leery of profit-makers in day care. Why?

SJ: Well, a number of groups concerned about this bill and active in the bill are quite concerned that large profit-making programs do not participate and, in essence, use limited funds in part for profits, and they point to the example under Medicare and Medicaid of nursing homes in which there have been some recent scandals in New York State and elsewhere where profit-makers could come in with very few checks and not have to meet standards, and not be subject to very much enforcement, and in some cases make a tremendous profit from public funds. So we do have what we hope is a very limited and carefully monitored approach which would permit you—that community—that prime sponsor—to select out a profit-maker for funding if, in their judgment, it met the standards, had the parent involvement and was just slightly better than a non-profit. One more point I would like to add on that (and I may be telling you more than you want), there are . . . day care is . . . contains some interesting legal fictions, you might say, with respect to profit-makers. It's not just like the automobile business when you talk about profit-makers being General Motors or a large corporation. There are large franchisers in day care who are profit-makers. There are also many, many, many small "mom and dad" or family day care operations which are *classified* as profit-makers simply because they have not filed for tax-exempt status. They may not have had a lawyer, they may not have gotten a 501–C3 status, and had a Board of Directors, but, in reality, they are not making a profit. They're making, in essence, a salary. So that is one reason, in order to encourage those programs to come in and be up-graded because that's where 60–80 percent of the children are today in day care. We have chosen not to exclude profit-makers totally because you would be excluding not only what people think of as large operators, but you would be excluding family day care—the mother down the block who watches fewer than six children in her home, which many parents prefer and which could use staff training and assistance and health attention.

JM: But, essentially, when you talk about profit, now you're trying to make it so that it's tough for the large franchisers to get money under this bill, but easier for the small "mon and dad" types?

SJ: Oh, no, that's not . . . if I left that impression, let me correct myself. It is going to be just as hard for any profit-making program—indeed, any program to be funded under this Act. One of the things that Senator Mondale and Congressman Brademas and the other sponsors feel most strongly about is that these programs have got to be of the highest quality. That we could well be doing damage to children if we permitted Federal funding to go to inadequately supervised, poorly trained custodial warehouses, whether those are profit or non-profit. So that profit and non-profits alike, family day care and big corporations and public schools will all have to meet all those standards, the exact same ones, and the only distinction is that if you are a profit-maker, and it's either family day care or corporation, non-profits will get a special priority.

A: William Pierce of the Child Welfare League and Wayne Smith of the National Association for Child Development and Education are on opposite sides of the dispute. Both are lobbyists, Pierce for the non-profit interests, Smith for the profit-makers. John Marrow talked first with Pierce.

JM: Is *for-profit* day care better than non-profit day care?

WP: No. For-profit day care, according to all of the studies that I have ever seen and all of the centers that I have visited, is by and large substantially worse than non-profit or publicly operated day care. Whether you take the study done by the National Council of Jewish Women, and they went into their study with no preconceived opinions, or the study done by a group of women in the Boston area, or our Child Welfare League's look at day care centers all over the country, what you find is that there are, indeed, a few good profit-making day care operations, just as there are, indeed, a few bad non-profit and publicly operated day care operations, but by and large you've got about five to six times better chance getting a decent day care service if you go the non-profit public route.

JM: What's wrong with . . . what are we likely to find in for-profit day care? You're saying it's substantially worse, but you really haven't documented that.

WP: You find the same thing in profit-making day care as you find in profit-making nursing homes. You find that the motivating factor is the bottom line—the bottom line being profit, the bottom line of profit being attained by cutting back on staff and on staff salaries, cutting back on the food, cutting back on the equipment, cutting back on the space, making sure that there is as little interference as possible in maximizing profit. That includes also that you have to cut back on consumer participation and consumer involvement in your program. In terms of consumer participation, we think it's critically important for consumers to always be involved in any kind of human service. This is particularly true when you're talking about a service for very young children. They can't speak for themselves, they can't object, they can't complain. It's important that their parents be able to walk into that center at any time, and look at the operation to complain. I have been in many profit-making centers. Most profit-making centers are extremely unwilling to let me, as a parent who says he wants to enroll his own child in a day care center, even in the door. And that includes operations in Maryland. That includes operations in California, Chicago, clear across the country. Time after time, representatives of the profit-making chains and the big profit-making operators have challenged me. They've said, "If you think our operations are so bad, come visit us." Well, I can tell you, I have visited them, and in case after case they have been breaking the Federal and state licensing laws by having too many children and too few staff. The food has been lousy, and the care has been, at best, custodial.

JM: The present situation of scarcity, does that allow profit-making day care to flourish?

WP: That's been the excuse in profit-making day care and in profit-making nursing homes. The condition . . . the usual argument is, "Well, it may be bad, but it's better than having them out on the streets." That's the same argument they've used to run warehouses for the aged for 25 years in this country and we say, "Stop the argu-

ment with kids." It's a Hobson's choice, and it's ridiculous.

A: That was William Pierce of the Child Welfare League. Wayne Smith, who lobbys for the *day care for profit* interests, also spoke with John Merrow.

WS: I hate to differ with these critics of the proprietary operators, because we found that time and time again the centers that run for a profit give quality care, and I think that's what the parents look at—quality care. And when they go into centers, and they judge that they want to send their children to a center, and if we are providing 70% of all of the day care in America, there must be something that the proprietary operators are offering over the non-profits and others that are in the field.

JM: Now, William Pierce, who is your counterpart in the Child Welfare League, was very harsh in his criticism of day care for profit, and he said that when he went to visit for-profit day care centers, he often couldn't even get in the door.

WS: Why, I think that's right, because Mr. Pierce is not a father, and he has no right to be in there unless, you know, he was looking for other reasons.

JM: I can't argue with that. Why, if for-profit day care works, as you seem to be saying, why is it that the Brademas bill and the Mondale bill are setting up pretty high hurdles to the eligibility of for-profit day care?

WS: I think that your big problem is that they're being excluded in the present Mondale-Brademas bill. Proprietary operators are being excluded and, therefore, that is why we are in opposition to the bill, in the sense that if we are going to be excluded, we'll be opposed to the bill. If we're included, we're all for the bill.

JM: Right now, then, you're opposed to the bill?

WS: That is right, unless it is amended.

JM: Now, the critics of profit-making day care point to Medicare and Medicaid and to the nursing homes as examples where when the profit-makers are let in or allowed in, scandal develops.

WS: I think you can find a scandal in anything, and if you want to look down at the White House or HEW or other agencies, I think you'll see enough scandal right there in the bureaucratic jungle that most of these agencies are made up of.

JM: Well, that doesn't really refute the charges about, for example, the nursing home scandals where patients are found to be kept drugged during the day so they won't cause trouble, and immense profits are being made by the profit-makers.

WS: Well, I think again the problem is that HEW, who funds the Medicare Program to the nursing homes that are proprietary-run or not run by profit-makers, are not enforcing the standards, are not enforcing the rules. And this is the problem we have today in day care, nursing, whatever the case may be, is that nobody's enforcing the rules.

JM: What do you conclude from that?

WS: I conclude that they're doing a very poor job of trying to dole out money, and then where are the rules that have to be enforced, if they're not licensed?

JM: It seems to me that the heart of the objection, which I'm not sure we've really dealt with, is the notion of the profit motive, or the bottom line of making money. Now, what it sounds like you're implying is that unless there are stringent rules and enforcers of the rules, the profit-makers are going to watch that bottom line and will cut corners and thereby reduce the quality of the care; at least that seems to me what you implied about the nursing homes. Isn't that likely to happen in profit-making day care?

WS: No, to the contrary—the money that is made in the proprietary end goes into quality care because they have to meet such rigid standards, licensing standards enforced by the states, or the local health and enforcement departments in the counties where they have their facilities. That's where the money goes today—meeting the high standards that states are asking the proprietary day care operators to put into effect. On the other hand, the double standard goes into effect. They do not ask the public-funded centers to meet any kind of criteria.

JM: Now, how likely is it that Mr. Brademas or Mr. Mondale will make changes in this bill?

WS: I think that the Committee, once they have a chance to listen to all sides of the argument of quality day care, take a look at the bill—and it's a very comprehensive bill, it's a 66-page bill . . . I think that it'll be a long year, and I think there'll be a lot of changes, especially when the Congressmen and Senators go home and start meeting with their operators to get the input on what should be done on quality day care.

JM: Now, you've fought this battle before. This bill went through the House and Senate before and you lost then.

WS: We lost then, but as you well know it's not law and that is because the President vetoed the bill and the Congress could not overcome the veto and . . .

JM: But the President didn't veto it because it didn't include proprietary day care.

WS: No, but at that time the big argument was the total amout of money that was being spent, and we agreed with the President that this kind of spending would just build another bureaucratic agency.

JM: Are you saying that you prefer to see a bill which didn't have any public day care at all?

WS: I think that the way it should be done and handled is that the money be appropriated and then contract out to the proprietor operators, at so much a day for the children, and they'll do the job they have done for the last 20 to 40 years because . . . remember . . . public day care didn't come into effect until the late '60's.

JM: So, you'd say it would be best to rely on the free enterprise system?

WS: I think the free enterprise system is what has been the success in America not only in day care but in anything else, because remember—it's the tax-paying entities that are supporting the tax-consuming fields, whatever they may be.

A: Sid Johnson, Staff Director of Senator Mondale's Subcommittee on Children and Youth, also talked about the profit-makers with John Merrow.

SJ: Senator Mondale and Congressman Brademas and all the sponsors have been very careful to say that the so-called delivery system question, that is what combination of state and local government, is one that we're really open to. We are seeking advice and suggestions that will lead us to a solution that involves, and takes advantage of, the resources and the planning capacities of states and their existing programs, at the same time giving the flexibility that's so necessary for local diversity, for communities to adapt their programs the way they want. Now, that's a very easy goal to describe, but it's a hard one to work out. We're in the process of working that out. We've been very hesitant to have a sort of national blueprint that would mandate these programs run through the schools or mandate that they be run through the welfare departments. Some states, such as California, have a very large program of day care and early childhood education run through the schools. Other states do that through welfare departments, or through offices of children. This particular question is one involving how they will be delivered, and who will deliver them. It's our hope that all the groups and individuals and organizations interested in this bill will keep the purpose of it *primary*, and agree to sit down and discuss in hearings and other ways the sub-questions, important questions, but still sub-questions about who shall run the programs. I think you will end up with a very diverse system serving many income groups, which is precisely the point of this bill. We want very badly to provide a program that does not divide people into poor and non-poor. We want a single system. We don't want dual systems. I think the sponsors of this bill have seen enough examples of dual systems in health care or some other program where you have Medicaid for the poorest of the poor, and something else for those who aren't poor. And many people have said that if you have a program just for poor people, it ultimately becomes a poor program because it cannot sustain the popular support—the support of the public. It's viewed as being unfair and tilted, and we feel very strongly that, much like the public schools, this should be a program that serves all children.

JM: Now, Sid, this is something that Senator Mondale and Congressman Brademas and you and a lot of other people have been working on for a number of years. The bill has gone through once and been vetoed, went through part way another time; now, I guess, it looks as if it is inevitable. When do you expect this bill to come up for a vote?

SJ: That's another hard question to predict because things change month to month. If you assume, for example—and this is a big *if*—that Congress would pass a bill of this nature, or something close to it, by June or July, and it would be signed into law, the next question, then, is when is the first effective year? For example, a number of groups have criticized the bill, saying that there's no need for a phase-in year, that the needs are so great and the capacity is there, that we should move directly into program operation. So that's an uncertainty. The second uncertainty is whether, indeed, the bill will be passed and signed into law. A third uncertainty is, if it is enacted, how would the Appropriations Committee respond to this in view of the other demands for resources? So it would be a mistake to predict in any sense, to lead anyone to believe that, at a certain date, money will be available under this.

JM: So, anybody who is sitting at home waiting for the Federal funds ought not to be sitting there, ought to be out making day care arrangements in some other way right now?

SJ: Right. And they should be communicating with their political leaders, their congressmen and their senators. If they feel that this is a need that should be met, they should be doing everything they can to assist in passage of this bill, and to assure that the President signs it, and then you can't quit after that. Then come in and work for appropriations for it.

A. As important as the Child and Family Services Act is, and as great as the need for adequate day care is, it looks as if, for the next few years, the answer to our opening question "Who cares for children" is, bluntly, "not enough parents, not enough adults, and not enough politicians." Regarding the pending legislation, we are reminded of Carol Burris' testimony on Capitol Hill:

CB: We're all discussing once again this problem. And, in the meantime, I was the mother of a child who was a preschooler when this bill first passed. I'm now the mother of a second-grader and, if we keep on at this pace, I'm going to be the grandmother of somebody who needs day care.

C: Sometimes she comes home late, and I wait for her.

JM: Is your dad at home?

C: No.

JM: Does your Mom call up right away when you get home?

C: Not many times. She just calls and asks to see if we're all right, if we're okay. I tell her we're all right.

JM: Well, now, is your Mom at home when you get there?

Second Child: No.

JM: Does she work?

C: My parents are separated.

JM: And you live with your Mom or your Dad?

C: My Dad.

JM: Is he at work?

C: Yeah.

JM: What kind of work does your Mom do?

C: She works in . . .

(Music)

A: We want to use the final minutes of this program to tell you good news. We've just won two prizes for our reporting on education. The National Council for the Advancement of Education Writing has awarded us first prize in the "Broadcast" category. We also won first prize for "radio coverage of higher education in 1974," an award given by the American College Public Relations Association, Mason-Dixon Division. And we have a prize of sorts for you, if you work in education. Our reporter, John Merrow, has written a work that has upset the traditionalists in teacher training. It's being published, along with replies by several prominent educators, by the National Institute of Education. NIE has agreed to send free copies of the book, *The Politics of Teacher Training*, to listeners who write in on official stationery. So, if you work in education and want a free copy of John Merrow's book, *The Politics of Teacher Training*, write us on your official stationery. And if you want a transcript of "Who Cares for Children?", send $.50 to the same address, which is: Options on Education, 1001 Connecticut Avenue, N.W., Washington, D.C. 20036.

(For "Options on Education," I'm Mike Waters. This program was produced by Midge Hart and John Merrow. Funds for the program were made available by the Institute for Educational Leadership of The George Washington University and the Corporation for Public Broadcasting. This is NPR, National Public Radio.)

INDOCHINA REFUGEES

Mr. HUGH SCOTT. Mr. President, the Indochina refugees, I firmly believe, are in no way a "problem" for the American people, unless America turns her back on her heritage as a country which welcomes persons from foreign nations to her shores.

I have asked that these refugees find a new chance in our great country; I have asked this ever since their evacuation, and I continue to ask this. A few people have criticized my stand, but it is one which I will continue to take because I know that the people of America are generous and have ever been so. This generosity is our strength.

Mr. President, I ask unanimous consent that a column by the editor of the Philadelphia Inquirer, Creed Black, be printed at this point in the RECORD. In his column, Creed Black clarifies the debate the Senator from South Dakota and I have had on the refugee problem, making reference to a column which John Lofton wrote and which appeared in the Inquirer and which Senator MCGOVERN himself inserted in the RECORD.

Mr. President, I further ask unanimous consent that the Lofton column, a statement by Senator MCGOVERN, and an item in Saturday's Philadelphia Bulletin be printed in the RECORD.

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

[From the Philadelphia Inquirer, May 18, 1975]

MCGOVERN IS, INDEED, HYPROCRITICAL ON THE REFUGEE ISSUE

(By Creed C. Black)

Notes on the news:

George McGovern took the floor of the United States Senate Wednesday to charge that "an incredibly distorted interpretation" of his proposal to return Vietnamese refugees to Vietnam had appeared in The Inquirer the day before.

He was talking about a syndicated column on this op-ed page by John D. Lofton, Jr., and he said he believed that "the editor of The Inquirer will correct this unfortunate story in his paper."

Well, senator, the editor of The Inquirer is publishing elsewhere on this page today the full text of the statement you made when you introduced the bill in question. With it is a reprint of the Lofton column.

Our readers may draw their own conclusions.

Mine is that Sen. McGovern's position is indeed hyprocritical, as Mr. Lofton charged.

The senator calls his proposal "a bill to assist refugees from Vietnam who wish to return to their native country." But in the rest of his statement he says to these same refugees, in effect: "Here's your hat—what's your hurry?"

He says that their evacuation may be "the final blunder of Vietnam." He concludes that 90 percent of the refugees would be better off going back where they came from. He would make "steps to facilitate their early return" the highest priority of our program to deal with these unfortunate people. And he assures them this would be in their "best interest."

All of which, I agree with John Lofton, is hard to square with some of Mr. McGovern's pious pronouncements of the past.

Incidentally, Sen. Hugh Scott pointed out that "any Vietnamese who wish to return may do so. They are being asked at the resettlement locations if they wish to return. Their answer is noted in writing.

"So far 45 of the 125,000—45 people—have asked to be returned. They were the 45 who were swept into the planes by Thailand soldiery, and whose families are still in Vietnam. Those 45 will be returned."

And despite Sen. McGovern's notion that he knows what's best for them, many of the other refugees apparently think that America is still a land of opportunity.

Time magazine quotes one of them, a 40-year-old former marketing manager for a paper and sugar distributing company who it says "fought back the tears as he noted that his current net worth is $4."

" 'You know', he said in broken English as he fingered his worn trousers, 'when I go, I forget to put on my good clothes.' Then he mused: 'I believe I have a good future here. I think the Americans in the end are good people. I think. I hope.' "

I think so, too, sir. And welcome to the United States.

Speaking of hypocrisy, a prize of some kind must go to North Vietnam for its description of the U.S. military operation to retake Mayaguez as "a flagrant act of piracy."

What, one wonders, does Hanoi consider the seizure of the ship by the Cambodians in the first place? Its "liberation," I suppose.

[From the Philadelphia Inquirer, May 18, 1975]

MCGOVERN'S PROPOSAL—HELP THOSE WHO WANT TO RETURN

(By Senator GEORGE MCGOVERN)

Mr. President, I introduce for appropriate reference a bill to assist refugees of Vietnam.

(S. 1626. A bill to assist refugees from Vietnam who wish to return to their native country. Referred to the Committee on Foreign Relations.)

The final blunder of Vietnam may be that the administration has chosen evacuation of nearly 100,000 Vietnamese as a substitute for accommodation in their own country. That policy should be reversed. Ninety percent of the Vietnamese refugees would be better off going back to their own land. And I say that in a humanitarian spirit.

America will not turn away those few who might be endangered by a return to their homeland. But I have never thought that more than a handful of government leaders were in any real danger of reprisals. The great majority of Vietnamese refugees do not fall into that category.

Most of them left in panic out of fear of a bloody final battle for Saigon that did not materialize. Nor is it likely that the new government will engage in the bloodbath our policymakers have talked about so much.

The Saigon government has already given orders that the people are not to be molested or their personal belongings seized. That is more respect for the people than Thieu's army frequently demonstrated.

It is also apparent from news accounts that the procedure for selecting evacuees on the basis of the risk of recrimination broke down entirely. Thousands of people were taken out at random and thousands of others simply headed out to sea on their own to be picked up by American ships.

I suggest that our program for dealing with these refugees should include as the highest priority steps to facilitate their early return to Vietnam.

We should express to the new government in South Vietnam our interest in implementing such a policy. We should make transportation available and we should stand ready to assist in every possible way in reuniting these people with their families and their country on a voluntary basis.

My bill would permit the use of either commercial carriers or American ships and planes to return any refugees who wish to go back to Vietnam now that the panic is subsiding. I fully believe that it will be in the best interest of most of the Vietnam refugees to return to their own country.

[From the Philadelphia Inquirer, May 18, 1975]

QUOTES FROM THE PAST—HIS WORDS HAVE A HOLLOW RING

(By John D. Lofton, Jr.)

WASHINGTON.—Without a doubt, he is it. No contest. The man, if indeed he is a man, towers head and shoulders above all challengers. George McGovern is the most immoral hypocrite on the American political scene today.

Anyone who feels this is an overly harsh indictment has only to consider the South Dakota Democrat's remarks about the Vietnam refugees and contrast them with the unctuous moralisms this son of a Methodist minister was preaching in his presidential campaign three years ago.

Over and over in 1972, McGovern's heart repeatedly bled as a result of a matter he said had literally become an obsession for him, something that had "weighed on my conscience for nine years": the thousands of Asians burning, bleeding and dying in Indo-

china, many of them innocent children, many old people but none with any direct responsibility for the conflict that took their lives.

In a Truman Day Award Dinner in St. Louis, in October of 1972, McGovern observed that our nation was born in a noble vision of human existence, noting:

"The faith of our fathers was cherished by millions who followed after them. From a hundred different lands and every continent, immigrants came to America, not because they believed the streets were paved with gold, and not merely for jobs and opportunity, but because here they hoped to find a new birth of freedom for themselves and their children, a new liberation of spirit."

Declaring that almost every country in the world is a country because its people share a common culture, McGovern pointed out that America, however, was different:

"America is a land of diversity discovered by an Italian commissioned by the queen of Spain. Our independence was won by men named Kosciusko, Von Steuben and Lafayette, as well as Jefferson, Adams and Paine.

"Chinese Americans built the transcontinental railroad from the West, and at Promontory Point they met Irish-Americans who were building it from the East. Our culture has been diversified and enriched by the American Indians, the black Americans, and the Spanish-surnamed Americans. Every language that is heard in the world today has been heard within our borders. Every religious creed finds its expression here."

This same month, at Wheaton College in Wheaton, Ill., McGovern spoke passionately of how his religious convictions shaped his view of America's destiny. He declared:

"Some Christians believe that we are condemned to live with man's inhumanity to man—with poverty, war and injustice—and that we cannot end these evils because they are inevitable. But I have not found that view in the Bible.

"Changed men can change society, and the words of Scripture clearly assign to us the ministry and the mission of change.

"While we know that the Kingdom of God will not come from a political party's platform, we also know if someone is hungry we should give him food; if he is thirsty, we should give him drink; if he is a stranger we should take him in; if he is naked, we should clothe him; if he is sick we should care for him; and if he is in prison we should visit him."

Then McGovern quoted the Lord: "For inasmuch as you have done it unto the least of these my brethren, you have done it to me."

So, now with President Ford's courageous decision to rescue some 150,000 Vietnamese from communism—60 per cent of whom are children—Sen. McGovern has been presented with the golden opportunity to practice what he has preached.

As a member of the U.S. Senate, he is in a position to vote money to give food to those who are hungry; drink to those who are thirsty; and shelter to those strangers who need to be taken in.

His real reaction? Forget them.

These thousands of new Americans, so desperately in need of bread, he hands a stone. The operation that rescued them, he calls the "final blunder" of the war.

In his opinion, but he does not say how, it would be "in the best interest" of those who fled communism to now return to communism.

In 1942, George McGovern won the South Dakota Peace Oratory Contest with a speech title, "My Brother's Keeper." If he has an ounce of moral decency left in him, which I seriously doubt, he should now return this award. But if he doesn't the people who gave it to him should demand that he give it back.

[From the Philadelphia Bulletin, May 17, 1975]

A NEW FORUM TOPIC: WILL YOU MAKE ROOM FOR A REFUGEE?

Does the controversy over the refugees from South Vietnam and Cambodia mean that the United States is no longer the place of refuge for the threatened and the oppressed? Should the words on the Statue of Liberty, words offering shelter to homeless, huddled masses, be changed to read: "No Vacancy?"

Quite a few in the United States seem to think so. In Congress, liberals who had been in the fore of the antiwar movement expressed serious reservations about opening the nation's gates to thousands of the homeless and endangered. They were joined by conservatives who had supported the war and who praised the valor of "our gallant South Vietnamese allies."

Senator George McGovern said he thought the Vietnamese would be better off in Vietnam and insisted that many already in the United States would like to go back. Others anxious to hide the welcome mat talked darkly of refugees from Southeast Asia taking already scarce jobs from unemployed American workers, although the AFL-CIO's George Meany scoffed at this possibility.

Do you share President Ford's anger that so many in the United States seem to have forgotten that this is a country created by people who came from somewhere else? Or do you feel that this nation adequately demonstrated its humanitarianism by admitting the "freedom fighters" from Hungary and anti-Castro Cubans as well as so many others?

It is not merely a matter of answering "yes" or "no" to the new refugee question, but of stating how far you are willing to go to make room for one, or even a family of these New Americans.

Would you be willing to see a family or perhaps a dozen families from Southeast Asia settle in Burholme or Cherry Hill or King of Prussia? The current total of refugees is placed at about 120,000. Suppose the total rises to nearly 200,000? How would you feel then? After all, 675,000 Cuban refugees came to the United States, while the total who found sanctuary in the United States from Hungary was about 40,000. The claim has been made that most of those who fled from spread of Communism. Are not these people entitled to very special treatment since they are, in effect, wards of the United States?

Tell us what you think of the entire situation. An early Gallup Poll indicated that a majority of Americans were all in favor of South Vietnam and Cambodia had to do so because they were marked for reprisal as part of the United States' effort to halt the helping refugees resettle—but not in the United States. Do you now feel ashamed of this finding? Are you willing to make some sacrifice, do something extra to help make life easier for these victims of war?

Give your view of the refugee situation in a letter to The Saturday Forum, The Bulletin, 30th and Market streets, Philadelphia, Pa. 19101. Keep your letter short and include your name and address and a telephone to facilitate verification. Write today. Your opinion, your suggestion might help guide those in our government charged with making policy decisions on this human problem.

PROFILE OF TOM MORELAND, GEORGIA'S COMMISSIONER OF TRANSPORTATION

Mr. TALMADGE. Mr. President, Dixie Business magazine, published by Hubert Lee in Decatur, Ga., will publish in its summer issue a very fine profile on one of Georgia's most outstanding public officials, Tom Moreland, the State's Commissioner of Transportation.

Mr. Moreland has compiled a record of splendid public service, and he has well-deserved recognition as a hard-working and competent leader.

I commend Mr. Moreland for the good job he is doing, and ask unanimous consent that the Dixie Business article be printed in the RECORD.

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

TOM MORELAND—GEORGIA'S COMMISSIONER OF TRANSPORTATION

Tom Moreland, the undisputed top man of the Georgia Department of Transportation (GDOT), spends his days adjusting to the double-barreled power of his new office.

Recently installed as Georgia's commissioner of transportation while retaining his title of the state's chief highway engineer, Moreland holds a strong grip on Georgia's largest state agency.

As commissioner, one of the handful of professional engineers to ever direct the GDOT's overall operations, he has had to broaden his basic philosophy to take in all types of transportation—not just highways.

To implement the idea of "total transportation", Moreland has reorganized the department of nearly 8,000 employes to reflect the wave of the future.

"Presently," the commissioner said, "the predominant workload of the department is highway construction, operations and maintenance, but with the new plan we can accommodate any kind of facility."

The State Transportation Board agreed with Moreland's strong arguments for reorganization and approved a complete reshuffling of the GDOT's organizational table as recommended by the newly sworn-in commissioner.

The new plan calls for a shifting of department priorities from highway building to Moreland's more functional lines, creating divisions of administration, operations, construction, pre-construction and planning.

Moreland explained that the new organization will provide "a potential in the agency to accommodate a growth of other modes of transportation (than highways) that I anticipate will occur."

A firm beginning for a determined leader.

But, as with many men, there are two sides to Tom Moreland.

First, he is a forceful man, an able administrator. He is a leader, directing thousands of men and women employees whom he must inspire to their highest level of achievement, while carefully watching over millions of dollars in tax money.

Second, he is a man who is uncomfortable in the high-backed leather chair usually reserved for the commissioner for use in the inner sanctum of his private office. Instead, he reclaimed a less pretentious seat from his old office that had served him well in past years.

Tom Moreland is a man who awakens early in the morning wondering what he will be called upon to do at work this day.

Then, quickly realizing that he now holds the reigns of power, he knows it is he who must decide what will be done.

A professional engineer, he is new to the arena of public exposure, having exchanged his hard hat for the soft Stetson of the politician.

His tempering of his professional judgment with the necessities of political life will mark him as a new breed of Georgia transportation commissioner.

One of Moreland's strongest points as commissioner of transportation is his trip up through the ranks, which has provided him with invaluable, inside GDOT experience since 1957.

Having joined GDOT as a rodman at $150.00 per month salary, he moved to positions of resident engineer on construction,

soils engineer, highway materials engineer, assistant state highway engineer and on January 1, 1972, he was named state highway engineer.

Coupled with a reputation for slide rule-like precision, the commissioner has always expressed his concern for the welfare of the employees in his charge.

Employee morale is a first-line consideration in a time of frozen hiring and promotions.

Inquiries as to education achievements find Moreland on solid ground.

A native of Chatsworth, in the foothills of the North Georgia mountains, he attended public schools and was graduated from Murray County High School in 1950.

He attended North Georgia College in Dahlonega following high school graduation in 1952, when he enrolled at the Georgia Institute of Technology.

Moreland received his bachelor of civil engineering degree with highest honors in 1955, followed by the master of science in civil engineering in 1962.

After graduating in 1955, he served two years in the U.S. Army as an officer engaged in airfield construction.

He was a member of the Georgia National Guard from his Army discharge in 1958 until 1968.

Since he received his master's degree, he has contributed to his profession by publishing nearly a dozen professional papers.

Moreland could certainly be described as an engineer's engineer, having been recently named to the executive committee of the American Association of State Highway and Transportation Officials.

The new commissioner's plan for Georgia's Department of Transportation is simply stated in his own words—"To build from our strong points, to improve on our weak points and to become the best transportation department in the United States. . . ."

A family man, the 41-year-old chief engineer spends as much time as possible with his wife, Evelyn, and his four children.

Some of his time is used in worship at the Valley Brook Baptist Church in Decatur, where he is a member.

More appropriate than any other description is to say that Tom Moreland is a man with a sense of history.

He is acutely aware that he is in the vanguard of transportation administrators who are being given a chance to prove that a professional approach is what transportation planning has needed all along.

He is determined that he will succeed in providing better transportation facilities for the people of Georgia, while operating within a reasonable budget.

The future rests with him.

Bert Lance, former Commissioner of the Georgia Department of Transportation and now President of Atlanta's National Bank of Georgia, wrote:

Hubert:

Tom Moreland is the most responsive leader I know—

He will do a great job as Commissioner. . . .

MAY IS HEARING AND SPEECH MONTH

Mr. PERCY. Mr. President, May is hearing and speech month as proclaimed by the National Association for Hearing and Speech Action. During this month, NAHSA and local hearing and speech centers across the country are seeking to inform the public about hearing and speech disorders and to encourage interest in the activities of NAHSA.

One of every ten Americans suffers from a hearing, speech, or language problem. As a hearing-impaired individual myself, I know the problems such a condition can cause and the importance of recognizing and treating hearing and speech disorders in people of all ages. Detecting hearing impairment in children is particularly critical. All too often a loss of hearing is mistaken for an emotional disturbance, mental retardation or a behavior problem. Discovered early enough, hearing impairment can often be treated and the afflicted child can receive the special training he needs. If a child's hearing defect goes unrecognized or untreated, he may be unnecessarily handicapped his entire life.

Hearing impairment in older people also goes frequently undetected and untreated. We often refuse to recognize a hearing loss as such and allow ourselves to drift further and further from the mainstream of life as we miss more and more of what is happening around us.

Hearing impairment is frequently viewed as a handicap. Yet it need not be if we are all careful to recognize hearing problems in ourselves and others and to do everything possible to correct and treat them. As my colleagues go back to their home States during the coming recess, I hope they will all participate in the local observance of Hearing and Speech Month by helping to enlighten constituents about hearing and speech disorders. There is no Member of Congress who does not have a sizable number of constituents with speech and hearing problems. Participating in the observance of hearing and speech month will be beneficial for us all.

REPRESENTATIVE KARTH'S REBUTTAL

Mr. GRAVEL. Mr. President, I have received a copy of a letter by Representative JOSEPH KARTH of Minnesota countering an editorial published in the St. Paul Pioneer Press critical of the Senate Commerce Subcommittee on Aviation hearings on my bill, S. 306, to abolish the airline mutual aid pact.

The letter details the important aspects of that bill. Mr. Karth has sponsored a parallel bill in the House of Representatives with 72 cosponsors. I ask unanimous consent that the letter be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 30, 1975.

Mr. WILLIAM C. SUMNER,
Editor, St. Paul Pioneer Press,
St. Paul, Minn.

DEAR BILL: The usually sure-footed editorial page of the St. Paul Pioneer Press really booted one in its April 24 editorial discussion of the Airlines Mutual Aid Pact.

In fact, the editorial booted the issue all around the field without ever coming very close to the goal line.

The basic issue in legislation presented by me in the U.S. House of Representatives and by Senator Mike Gravel (D.-Alaska) is simply whether the Airlines Mutual Aid Pack (known as MAP) has been and can be damaging to cities like St. Paul and hundreds of other communities in a comparable situation, and injurious also to the national economy, to the public, to airline customers, to airline stockholders and to unions of airline employees.

The answer to that question and all its parts was an unequivocal "yes" given by a dozen witnesses during the first day of hearings held last week by the Aviation Subcommittee of the U.S. Senate Commerce Committee.

I suggest, incidentally, that your editorial writer would have understood this much better and the gathering storm of protests and criticisms, over the past 16 years, against MAP if he had read more carefully the excellent summary by Pioneer Press Washington Bureau reporter Al Eisele on the same day. That summary, within its space limitations, gave a fair and accurate description of what has become a pressing issue before the U.S. Congress.

And let me note here, at the outset, that my bill to abolish MAP has 72 cosponsors in the House of Representatives, many more than the number of cosponsors in previous years; and Senator Gravel's parallel bill has tripled the number of its cosponsors this year.

The premise of the Pioneer Press editorial is that "The bargaining power of 16 U.S. airlines for future wage negotiations would be diminished by a bill being heard by a Senate subcommittee."

This is partly true but not, I suspect, in the way intended. Abolition of MAP *would not* diminish management's bargaining power but it *would* diminish the airlines' ability to protract and prolong—almost interminably—any dispute or strike by an airline's employees.

Essentially that is what MAP is all about. It provides a struck carrier with a guaranteed profit, without any cutoff date, enabling that carrier to perpetuate the strike indefinitely, to make a profit and force the union to weaken its bargaining position. There is not, it should be emphasized, anything like this arrangement anywhere else in American industry or business.

MAP thus gives airline management a tremendous, almost overpowering, advantage over its union adversary. To understand this we must first understand how MAP operates.

MAP started out 16 years ago as a small and modest cooperative venture by six carriers to save a small tottering airline from its financial problems. It has mushroomed fantastically until today, with 16 affiliates, MAP is a nationwide, industry-wide enterprise which has enabled its members to pay $360,000,000 to striking companies.

These multi-million dollar payments are the crux of the injury that MAP can inflict, and has inflicted, on airline customers, communities, shareholders and employees.

With all its expansions sanctioned and encouraged by the Civil Aeronautics Board, MAP now reimburses a struck airline for 50% of its prestrike operating costs for the first two weeks of a shutdown, 45% for the third week, 40% for the fourth week and 35% thereafter until the strike is settled.

How do we know that such payments as these mean a guaranteed profit? We have it from no less an *authority* than a CAB hearing examiner, Arthur S. Present, who had the whole MAP issue under consideration when he found that "during a full shutdown a struck carrier can limit its operating expenses to 29.2% of the normal level."

The mathematics of profit here are simple. Against that 29.2% operating expense is the 50% of prestrike costs paid by MAP for the first two weeks, which means a guaranteed profit of more than 20% for that period, graduated down to nearly 6% for whatever length of time the strike lasts.

The most obvious conclusion is that such a guaranteed profit windfall as this undermines management's incentive to engage in

full-faith bargaining. To the contrary, of course, it encourages management negotiators to withhold concessions and compromises.

In fact, Hearing Examiner Present recommended in 1972 that CAB not approve higher strike payments because they could have the effect of swaying an airline's decision "as to when it should settle a strike, to the detriment of the public utilizing air transportation."

There is other solid proof that MAP encourages and prolongs strikes. In 1958 when MAP was organized, airline strikes lasted an average of 30.7 days. Today airline strikes average 95 days—a soaring increase of more than 200% in the 16 years MAP has been at work. This is a far greater increase in the duration of strikes than in any other major industry.

Thousands of St. Paul residents and businessmen have vivid memories of the 1970 Northwest Airlines strike. Although on strike for 160 days, Northwest enjoyed a net profit of $44,000,000 for that year. Without MAP payments, Northwest would have lost $2,000,000.

That story is repeated over and over again with other MAP-affiliated airlines. Over and over again airline strikes were induced and then prolonged unreasonably because of the guaranteed profits. As one witness told the Aviation Subcommittee last week, "Why should management be anxious to settle; *they can't lose.*"

Sometimes in unguarded moments, airline executives admit that they like strikes because they're a source of profit. For example, C. C. Tilinghast, Chairman of Trans World Airlines, told a Honolulu newspaper reporter that the longer a strike by flight attendants continued, the higher TWA's profits would be for 1973. TWA banked $74,484,000 in MAP assistance payments during that 44-day walkout.

As Reporter Eisele quoted me as telling the Subcommittee, "These facts and figures are enough to convince any reasonable person that MAP is a strike inducing, strike-prolonging and strike-breaking instrument."

Your editorial next makes the point that MAP has been upheld by a U.S Court of Appeals decision. When Senator Gravel was asked about this during the hearing he replied that it is within living memory that some of the nation's highest courts upheld child labor, the shameful 12-hour day of toil for youngsters 11 and 12 years old in coal mines and textile mills. I also point out that the court ruled on the basis of existing national policy brought about by national law. Obviously since there is no law to the contrary, MAP is not in violation of national policy.

Next the Pioneer Press editorial points an accusatory finger, or so it seems, at the pay scales of pilots and ground crews. When this point was briefly raised at the hearing I made this response: "When I fly I feel confident and comfortable when I know there's a pilot up front getting $50,000 or more and not $10,000; I know he has to be the best trained and most skilled in the world. And I feel confident and comfortable when I board a plane that has just come from maintenance knowing that the maintenance men are highly paid and therefore highly skilled."

Does the editorial writer want to analogize between an airline pilot in command of a 747 with responsibility for 400 lives, and a steelworker in a highly automated plant?

Pilots do not buy planes. Aircraft get larger and larger; their equipment becomes more and more intricate and complex. They carry more and more people. Consequently there are greater demands of responsibility, skill, experience and judgment imposed on airline pilots than on any other service employees in the world.

Finally, the editorial notes that "airline unions have their own mutual aid program in the form of strike funds."

This is so ill-informed a comment as to be ludicrous.

First off, there is absolutely no mutual aid pact among the airline unions, nothing paralleling MAP with its $2,000,000-a-day strike subsidy payments to TWA.

The fact is that some unions pay no strike benefits at all. Some unions that do pay, provide only the barest subsistence funds, $2 to $7-a-day, and that hardly puts food on the table. Certainly no one can suggest that is profit making.

Senator Gravel (testifying alongside me at the hearing) astonished some Senators by revealing that "Airline clerks and machinists may—*if the union strike fund is full*—receive $15 and $40 a week respectively. The pilots receive one-fifth of their salary but only after one month of a strike." If it will help any, I would agree that airlines get the same proportion of their normal profit that employees get of theirs.

Those facts stultify any remark that "airline unions have their own mutual aid program in the form of strike funds." While a strikebound airline is enjoying up to 20% guaranteed profits, the striking airline clerk or mechanic is looking for a part-time job, applying for unemployment compensation, or standing in line for food stamps.

Finally let me bring forward one aspect of MAP which the Pioneer Press editorial wisely sidestepped: the damage inflicted by MAP-prolonged strikes on whole communities and regions, especially those served by only one airline.

We know of airports in single-airline communities being almost entirely shut down, disemploying airport personnel, maintenance workers and employees of such airport enterprises as restaurants, rent-a-car agencies, freight-forwarding firms, and bus lines.

We know of factories in such communities having to close down because machinery replacement parts could not be obtained by air-freight. We know of retail stores and wholesalers suffering greatly reduced business because salesmen and suppliers had to come to the community by car, sometimes from long distances.

Those of us responsible for national policy can't forget those communities, even if editorial writers can. We cannot, for example, forget Fargo, North Dakota, which was so badly injured by the 1972 Northwest Airlines strike that it asked CAB to rescind Northwest's certificate and issue a new one to another airline.

We cannot forget the resolutions of protest against MAP that reached us in Congress last year and this year from communities in Texas, Louisiana and New Mexico because of the needlessly prolonged shutdown by Texas International Airlines, a shutdown that ended earlier this year after 125 days.

An investigation into this strike disclosed that 26 Texas communities served only by TI were severely hurt by the closures, with business failures sharply increased.

We cannot forget that the New Mexico State Legislature, alarmed and worried over the effect of the MAP-supported TI strike on the state's economic health, memorialized us in Congress and asked for a "full Congressional investigation of the Mutual Aid Pact."

Congress is now responding to the appeals from Fargo, North Dakota, from scores of communities in Texas and Louisiana, and from the New Mexico State Legislature.

And ironically while we are doing so, the Pioneer Press editorial tells us that "The move against the mutual aid pact in the Senate seems uncalled for . . ."

We hope that in the interests of fairness and press accountability that you will print the foregoing rebuttal. I often marvel at how smart so many editorial writers can be, absent of most of the facts.

Among the many reasons I ask it, is the fact that people of St. Paul and our city's business community and air traveling public want to prevent a repetition of the 160-day 1970 Northwest Airlines strike which brought no inconveniences to Northwest executives but large profits into their corporate bank accounts.

Sincerely,

JOSEPH E. KARTH,
Member of Congress.

P.S.—I am satisfied that you did not write the editorial because you never write one absent most of the facts.

THE PANAMA CANAL ZONE TREATY NEGOTIATIONS

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Wyoming (Mr. MCGEE), and the material attached thereto.

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

STATEMENT BY SENATOR MCGEE

The negotiations between the United States and the Republic of Panama over a new Canal Zone Treaty has sparked considerable controversy within the Congress. Much of this controversy has been based upon an outdated emotionalism—an emotionalism which ignores basic factual considerations involved in this issue.

Therefore, I would urge my colleagues to give close attention to a paper written by Robert G. Cox for *The Americas in a Changing World,* which was published just this year. The book was compiled by the Commission on United States-Latin American Relations, whose Chairman is former OAS Ambassador, Sol M. Linowitz. Mr. Cox, who was a consultant to the Commission, sets out the issues involved in the Panama Canal Treaty in a very pragmatic and factual manner. He is to be commended for this invaluable contribution to the debate surrounding the issue of a new treaty with Panama.

As Mr. Cox notes: "Americans have been inclined occasionally to overstate the commercial significance of the Panama Canal. . . ."

He points out that only 18 percent of the world's total merchant fleet (4,500 out of 25,000 ships over 1,000 tons) transit the canal each year. In an effort to set our factual house in order, it is interesting to note that the United States ranks tenth in the oceanborne commerce it sends through the canal by weight. Nicaragua ranks first with 76.8 percent of that nation's oceanborne commerce transiting the canal each year. The United States sends only 16.8 percent of its oceanborne commerce through the canal.

How vital is an effective and efficient operation of the canal to the two participants in the treaty negotiations—the U.S. and Panama? As Mr. Cox notes, about 30 percent of Panama's gross national product and 40 percent of its foreign exchange earnings are directly or indirectly attributable to the Canal and related institutions. Yet, the Panama Canal affects less than one percent of our total GNP as a nation.

Mr. Cox notes that:

By volume, less than five percent of the total world trade transits the Panama Canal. By value, the proportions would be little more than one percent; an increasing percentage of more expensive cargo is being transported by air (for example, about 10 percent of the U.S. foreign trade), and most Canal cargo is in bulk commodities.

I found this observation by Mr. Cox quite interesting:

The adjective most frequently applied to the Canal by Americans is 'vital.' In terms of U.S. trade, however, the numbers would justify more modest description. Convenient. Useful. The Canal is economically vital to Panama, perhaps also to Nicaragua and a few other Latin American countries, but not to the United States.

These are just but a few of the observations which Mr. Cox offers which I think are important for Senators to consider at this moment, rather than allowing themselves to be deluded by emotional arguments reminiscent of an earlier era. The military and strategic arguments are also handled in the same factual manner by Mr. Cox and certainly should be studied very carefully by members of the Senate.

However, there is one observation which I believe very relevant to our consideration of a new treaty. This observation was made by Jack Vaughn, former U.S. Ambassador to Panama, former Assistant Secretary of State for Inter-American Affairs, former Director of the Peace Corps and former Ambassador to Colombia.

. . . 'a Latin American Vietnam.' He finds that through the collaboration of Congressional and military supporters of the Canal Zone, 'Presidents' orders have been reversed, diplomatic maneuvers and decisions brushed aside, and the United Nations told to go to hell.' And he concludes, "The tinder awaits the spark.'

The report ordered to be printed in the RECORD is as follows:

CHOICES FOR PARTNERSHIP OR BLOODSHED IN PANAMA

(By Robert G. Cox)

On November 2, 1903, at 5:30 in the afternoon, the cruiser U.S.S. *Nashville* arrived at Colon in the Republic of Colombia, its mission to block deployment of Colombian troops. The next day citizens in the Panamanian province revolted and declared their independence. The revolution was bloodless, except for the death of one Chinese bystander. Fifteen days later, the U.S. government and the Republic of Panama entered into a treaty, drafted by a Frenchman and consisting entirely of language convenient to the United States. Still in effect today, the treaty granted the right to build and operate forever an interocean canal, and to establish, for that purpose, an American enclave in a strip of land and water nearly half the size of Rhode Island, bisecting the Republic on an axis between its two major population centers. The U.S. consummated that right as fast as logistics and technology would permit.

The position of the United States in world politics for nearly two centuries has rested on hegemony in the Western Hemisphere. The country acquired interests during those 17 days in 1903 which included a responsibility for the emergence of a nation, for the administration of a major territorial possession, and for the management of an international public utility of both commercial and military value.

Focusing on current efforts to negotiate and ratify a new treaty, this paper submits some findings of fact and observations concerning the nature of those interests and the fulfillment of that responsibility.

DESCRIPTION OF THE SUBJECT MATTER

Although U.S.-Panamanian affairs are subject to the full range of complexities found in other binational relationships, the principal subject matter has always been, and will continue to be, the Canal and the Zone. It is too early to predict the contents of the revised draft treaty but the Canal and the Zone will predominate.

Panama, by the 1903 treaty, granted the U.S. perpetual jurisdiction as if it were sovereign over the Canal Zone "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The Zone extends 5 miles on each side of the center line of the Canal, and has an area of 553 square miles of which 362 are land. It is larger than the American Virgin Islands, Guam, and American Samoa combined. Population was 44,198 at the 1970 census. About 11,000 U.S. Armed Forces personnel have been stationed in the Zone during recent years.

The Canal Zone Government and the Panama Canal Company are the two principal operating agencies, headed by one officer who serves both as Governor of the Canal Zone and President of the Company. The Governor is appointed by the President of the United States and reports to the Secretary of the Army. As President of the Company he reports to the Board of Directors, appointed by the Secretary of the Army. The Canal Zone Government maintains the civil executive authority. The legislative power resides in the U.S. Congress and the judicial power is exercised by a District Court of the U.S. Federal Court System. The Company operates the Canal, the Panama Railroad, and a ship which sails between New Orleans and the Zone.

Another U.S.-Panama treaty was signed January 25, 1955, increasing the annuity and granting Panama some real estate and buildings no longer needed by the Canal Zone administration. U.S.-citizen and non-citizen employees were guaranteed equality of pay and opportunity. The U.S. also agreed to build a bridge over the Pacific entrance to the Canal. The bridge was opened October 12, 1962 on the Inter-American Highway.

Panamanians have shown little immediate determination—of the kind so prevalent in Egypt 20 years ago with the Suez Canal—to assume the burdens and risks of administering the Canal.[1] Nationalization or purchase of the Canal, assuming either were feasible, might require Panama to contribute some effort to its management and defense, and would imply sharing in the losses as well as profits. In 1973, some officials of the Panamanian government considered the possibility of acquiring the Canal by purchase out of net earnings from increased tolls and services.[2] This, however, seems not to have received serious attention.

Economic Considerations

Americans have been inclined occasionally to overstate the commercial significance of the Panama Canal, but its value is nonetheless real. Adequate data exists to place it in proper perspective. The recent volume of transits, in number and cargo weight, is as follows.[3]

	Total oceangoing transits	Cargo (in million long tons)
Fiscal year:		
1968	14,807	106
1969	14,602	109
1970	14,829	119
1971	14,617	121
1972	14,238	111
1973	14,238	128

The Canal's ultimate capacity is 26,800 transits annually, with certain physical improvements.

Four categories of bulk commodities in fiscal 1973 accounted for most of the transiting cargo.

	Percentage
Petroleum and its products	18.2
Grains	15.8
Coal and Coke	11.1
Ores and metals	9.9
	55.0

Since transiting cargo tends to be made up of commodities which are volatile on the world market, traffic forecasting is difficult.

Each year 18 percent of the world's total merchant fleet (4,500 out of 25,000 ships over 1,000 tons) transit the Canal. The size of an average ship transiting the Canal has been increasing over the past ten years.

	P.C. net tons
1964	5,910
1969	7,658
1973	9,100

The countries most dependent on the Panama Canal send the following percentages of the oceanborne commerce through the Canal, by weight:

	Percent
Nicaragua	76.8
El Salvador	66.4
Ecuador	51.4
Peru	41.3
Chile	34.3
Colombia	32.5
Guatemala	30.9
Panama	29.4
Costa Rica	27.2
United States	16.8
Mexico	16.6
New Zealand	15.7

About 30 percent of Panama's gross national product and 40 percent of its foreign exchange earnings are directly or indirectly attributable to the Canal and related installations.

Canal Company tolls, by remaining constant in dollar terms since 1914, have decreased in real terms, and at a precipitous rate, as a result of international monetary readjustments in the 1970s. The result is a growing subsidy to Canal users.

Revenues of the Panama Canal Company were $200 million in fiscal 1973. Approximately 43 percent of regular receipts came from operations other than Canal tolls. The Company finances its own operations without budgetary support from the U.S. government despite a policy of low toll rates and minimal profits from other operations.

Proportions of the Canal Zone's product derived from various sources in 1970 was as follows:

	Percentage
Canal Company	44.7
Zone Government	10.2
Military bases and other official agencies	39.9
Private enterprise	5.2
Total	100.0

Of total U.S. foreign trade, by value, the following precentages transited the Canal in the two most recent years for which data is available:

PERCENTAGES

1971, exports, 12.1; imports, 5.6; total, 8.8.
1972, exports, 13.0; imports, 5.3; total, 9.0.

Since foreign trade accounts for less than 10 percent of U.S. gross national product, the Canal affects less than one percent of GNP. By volume, less than 5 percent of the total world trade transits the Panama Canal. By value, the proportion would be little more than one percent; an increasing percentage of more expensive cargo is being transported by air (for example, about 10 percent of U.S. foreign trade), and most Canal cargo is in bulk commodities.

Footnotes at end of article.

COMMENTARY

The adjective most frequently applied to the Canal by Americans is "vital." In terms of U.S. trade, however, the numbers would justify more modest descriptions. Convenient. Useful. The Canal is economically vital to Panama, perhaps also to Nicaragua and a few other Latin American countries, but not to the United States.

One way to analyze the Canal's commercial value is to consider what would happen if it were not there. The figures already provided for U.S. and world trade transiting the Canal—9 percent and 1 percent, respectively—should not be regarded as representing the portion that would be lost if the Canal were inoperative. The decision to send a given shipment through the Canal is frequently a close one, and almost always there are alternative routes or modes of transportation. John Elac* has described the impact of closure of the Canal on total U.S. and world commerce as "inconsequential."

An indicator often cited as proving the Canal's essential worth is: "70 percent of its traffic either originates or terminates in U.S. ports." In the first place, the percentage is a little inflated. It should be 65 percent, but it should then be compared to a totality of 200 percent, not 100 percent, because it refers to both arrivals at and departures from U.S. ports. The indicator, even when placed in that perspective, is spurious because it implies but does not provide an impressive statistical base. Presumably no one believes that if only ten motorboats transited the Canal in 1975, four coming from and three bound for U.S. ports this would reflect some kind of vital U.S. interest.

When we look at U.S. investment in the Canal, it is tempting to include defense costs, as Senator Strom Thurmond does when he says we have committed a total of $5,695,745,000.[4] But since the Canal is considered a defense asset, we would presumably be spending more than its costs on additional defense if we did not have it. The cost of defending it should be at least off-set by its asset value. Moreover, $5.7 billion is a small fraction of one percent of U.S. military expenditures during the 60 years of the Canal's operation. Indeed, the entire cost of the Canal might have been lost in the round-off of the defense budget in the fiscal years 1914 to 1973.

As for the $700 million in actual unrecovered investment, the U.S. government would have had that back by now had it not elected to subsidize the shipping operations of user nations through reductions in real toll charges while demand for transit service was increasing.

MILITARY CONSIDERATIONS

By the turn of the century, the United States had staked out its continental domain, subdued the indigenous peoples, resolved its main internal conflicts, established unquestioned predominance in the Hemisphere, and was ready to become a global power. On April 21, 1898, the nation went to war with Spain, and in three months destroyed the Spanish fleet at Manila, drove the Spaniards from Cuba, conquered the Philippines, took Puerto Rico and Guam. The battleship U.S.S. *Oregon* made a dramatic 16,000 mile voyage around Cape Horn to participate in the Battle of Santiago de Cuba. During the Spanish-American War, the U.S. annexed Hawaii after collaborating in a revolt there. The U.S. then responded to the 1899 Boxer Rebellion in China, by sending two infantry regiments, one troop of cavalry, one battery of light artillery, and two battalions of Marines, commanded by a major general, to join in military operations with the British, French, Japanese and Russians. A transisthmian canal, long regarded as a potential asset to burgeoning U.S. foreign trade, suddenly became a strategic imperative. The Canal has never been interrupted or seriously threatened by hostile action.

FACTS

The Canal remains a prime consideration in the planning for and accomplishment of the safe and timely movement of naval units between the Atlantic and Pacific Oceans. A saving in distance of approximately 8,000 miles is realized by Canal transit (versus rounding Cape Horn), in the deployment of ships from one coast to the other. A time saving of up to 30 days can accrue for slower ships and at least 15 days for fast ships cruising at about 20 knots.

During fiscal 1968, a representative year of the Vietnam conflict, 33 percent of the dry cargo shipped from the continental U.S. by the military sea transport service to South Vietnam, Thailand, and the Philippines, and Guam, transited the Canal. For petroleum, oil, and lubricants the proportion was 29 percent. An unofficial estimate of the proportion of dry cargo used to support U.S. military involvement in Vietnam which transited the Canal is as high as 40 percent.

However, in 1970 there were about 1,300 ships afloat, under construction, or on order which could not enter the Panama Canal locks. There were approximately 1,750 more ships that could not pass through the Canal fully laden because of draft limitations due to seasonal low-water level.

The National Defense Study Group of the Atlantic-Pacific Interoceanic Canal Study Commission specifically noted the "vulnerability of the present canal," and stated the fact that it could be closed by the use of relatively unsophisticated weapons is particularly significant in view of forecasts which anticipate that insurgency and subversion will probably persist in Latin America to the end of the century; interruption for extended periods to Canal service could be achieved with relative ease.[5]

If Gatun Lake were emptied by simple breach of its dam, for example, the Canal could be out of operation for as long as two years, awaiting sufficient rainfall to refill the lake.

The National Defense Study Group further found that even a sea level canal, though less vulnerable, would face threats of sabotage, clandestine mining, or the attack of shipping by low-performance aircraft or readily transportable weapons. The more traditional forms of attack—blockade, naval, or aerial bombardment, or ultimately attack by missile-delivered nuclear weapons—are unlikely, in the Group's view, because the attacker would be confronted by the total military strength of the United States.[6]

The Study Group concluded that closure of the Canal for periods of approximately 30 days, provided that they could be anticipated in advance, would not have serious defense implications, but the denial of the Canal to both defense and commercial shipping for two years could have a serious adverse effect on the national defense.[7]

The original purpose of U.S. troops in Panama was to protect the Canal from a foreign aggressor. That is still ostensibly their primary mission. However, the Canal Zone is also a command or coordination center for most U.S. Armed Forces programs and activities in Latin America, including foreign military assistance and training, intelligence, and operational preparedness. The legality of these operations has been questioned. However, the Zone, as long as it remains relatively secure from renewal of the nationalistic attacks of the 1960s, provides a location of unrivaled excellence for an administrative headquarters, communications center, and training ground.

COMMENTARY

Two military issues concerning the Panama Canal overshadow all others: utility and defensibility.

The Canal's military value during the first half of this century is well established, principally by its contributions to the two World Wars. Regarding the Korean War and the conflict in Southeast Asia, its utility is less certainly established. A former senior officer of the U.S. Budget Bureau Military Division estimates that alternative modes of shipment would have had no adverse effect on the Vietnam War effort and that additional costs would have been negligible.[8] A ranking State Department expert in Panamanian affairs now terms the Canal "a military asset of declining value." [9] Nevertheless, a residual utility will remain for some time, largely because of the constraints of U.S. West Coast port facilities, particularly in munitions-handling.

As for the second issue, the Cameron report of the Center for Inter-American Relations puts it succinctly: "The Panama Canal is no longer defensible." [10] This holds for either a strategic attack or destruction by a determined and resourceful enemy." The Canal can, of course, be held against some levels of civil disturbance. These informed but independent views do not diverge essentially from the later official judgment of the National Defense Study Group.[11]

As the strategic value and defensibility of the Canal eroded, the Zone has taken on a new military significance. The U.S. bases there form the operational center of American military activity in Latin America. Ambassador Jack Vaughn* thus described the situation last October:

The U.S. military command in Panama is made of two parts: a major general from the Corps of Engineers who governs the Panama Canal Company from Balboa Heights, and a four-star general from the Army (CINCSOUTH) who directs Canal Zone military operations from an underground complex at Quarry Heights. Their overriding common objective is to maintain the status quo, and over the years they have been largely immune to the precepts and changes of U.S. foreign policy.

While the Administration's policy has led to a reduction in all the U.S. military missions assigned to other Latin nations, the Pentagon has maintained its top-heavy command intact in the Zone. (The superabundance of Colonels in the Southern Command has led enlisted men to refer to it as "Southern Comfort.") While the U.S. military in all other Latin nations is under the direct supervision of the U.S. Ambassador, in Panama independent policy control is exercised by the Pentagon. Just when President Nixon was assuring our good neighbors that the U.S. would wear a white hat in the Hemisphere, the Pentagon expanded training of Green Berets in the Zone.[12]

In May 1974, there was some indication in the Pentagon that civilian officials might succeed in abolishing CINCSOUTH as a unified command and reduce the rank of the senior U.S. troop commander in the Zone to major general.[13]

POLITICAL CONSIDERATIONS

The history of U.S.-Panama relations has been characterized by (1) Panamanian surprise and mortification over the implemen-

*Dr. John C. Elac is an international economist and a specialist in U.S.-Latin American relations. He was a member of the Board of Directors of the Panama Canal Company and a member of its Committee on Budget and Finance (1967–69).

Footnotes at end of article.

*Jack Hood Vaughn was U.S. Ambassador to Panama (1964–1965); Assistant Secretary of State for Inter-American Affairs (1965–1966); Director of the Peace Corps (1966–1969); Ambassador to Colombia (1969–1970).

tation of the 1903 treaty; (2) increasing Panamanian agitation for revision; (3) an initial dilatory paternalism on the part of the U.S.; and (4) a more recent willingness by the U.S. Executive Branch to relieve Panama's grievances while influential members of the House and Senate demand retention of "personal sovereignty" in the Zone. For the past ten years, off and on, the two countries have been trying to negotiate a way out of the 1903 treaty.

The Canal Zone is an American colony. In the international political context, the word "colony" has two generally accepted definitions: (1) the compact settlement of a group of nationals from one country within the territory of another while the settlers remain loyal to the mother country; and (2) a nonself-governing territory, or a dependency without full self-government, considered by the various governing powers to be a territory under the jurisdiction of the mother country, prevented by social, economic, and political restraints from being fully in charge of its own decisions. The Canal Zone conforms to both of these definitions.

In Panama City, March 21, 1973, the United States vetoed a U.N. Security Council resolution calling on both countries to negotiate a new treaty to "guarantee full respect for Panama's effective sovereignty over all its territory." The U.S. explained its veto, the third in its history, by saying it wanted to negotiate with Panama "without outside pressure." All other Security Council members voted for the resolution except the U.K. which abstained.[14]

The multinational forum then shifted to the Organization of American States where hemispheric foreign ministers have, during the past year, expressed unprecedented concern over the Canal Zone issue.

On February 7, 1974, in Panama City, Secretary of State Kissinger and Panamanian Foreign Minister Juan Tack initialed a statement of eight Principles of Agreement providing that:

Panama will grant the United States the rights and facilities and lands necessary to continue operating and defending the Canal;

The United States will agree to return to Panama jurisdiction over its territory; to recompense Panama fairly for the use of its territory; and to arrange for the participation by Panama, over time, in the Canal's operation and defense;

The new treaty shall not be in perpetuity, but rather for a fixed period, and that the parties will provide for any expansion of Canal capacity in Panama that may eventually be needed.[15]

Senator Strom Thurmond on March 29, 1974, introduced Senate Resolution 301 on behalf of himself and 31 other Senators noting, in part, that:

United States diplomatic representatives are presently engaged in negotiations with representatives of the de facto Revolutionary Government of Panama, under a declared purpose to surrender to Panama, now or on some future date, United States sovereign rights and treaty obligations, as defined below, to maintain, operate, protect, and otherwise govern the United States-owned Canal and its protective frame of the Canal Zone;

Title to and ownership of the Canal Zone, under the right "in perpetuity" to exercise sovereign control thereof, were invested absolutely in the United States and recognized to have been so vested in certain solemnly ratified treaties by the United States with Great Britain, Panama, and Colombia . . .

United States House of Representatives, on February 2, 1960, adopted H. Con. Res. 459, Eighty-sixth Congress, reaffirming the sovereignty of the United States over the zone territory by the overwhelming vote of three hundred and eighty-two to twelve, thus demonstrating the firm determination of our people that the United States maintain its indispensable sovereignty and jurisdiction over the Canal and the Zone . . .

And resolving that:

The Government of the United States should maintain and protect its sovereign rights and jurisdiction over the Canal and Zone, and should in no way cede, dilute, forfeit, negotiate, or transfer any of these sovereign rights, power, authority, jurisdiction, territory, or property that are indispensably necessary for the protection and security of the United States and the entire Western Hemisphere . . .[16]

Writing in the *New York Times* on May 7, 1974, Senator Thurmond stated that a total of 35 Senators had, with "no great effort" and mostly in a single afternoon, been convinced to co-sponsor the resolution. He added:

In my judgment, the Secretary committed an egregious blunder in committing the United States to a course of action on a new Panama treaty without a reasonable assurance that the requisite two-thirds majority of the Senate supported the abrogation of sovereignty.

In consultations with members of Congress before signing the statement, Mr. Kissinger and his chief negotiator, Ambassador Ellsworth Bunker, were advised that surrender of United States sovereignty in the Canal Zone was not a negotiable item; they apparently chose to ignore this advice.

There is no way in which the Joint Statement of Principles can be reconciled with the Senate resolution.[17]

Senator Thurmond and certain members of the House of Representatives contend that the relevant language in the constitution requires that a majority of the House as well as two-thirds of the Senate approve any agreement which cedes land to Panama. The State Department contends it is one of many constitutional grants of power to Congress which is affirmative but not exclusionary, and cites precedents which "in the specific context of Panama, . . . look two ways." [18]

The State Department has understood throughout the recent negotiations that no treaty with Panama affecting U.S. jurisdiction will be ratified without the approval or acquiescence of the Joint Chiefs of Staff. The JCS lines to Capitol Hill are time-honored and uncontested. The Chiefs have accepted the eight negotiating Principles of February 7, 1974. It remains to be seen whether they will approve the treaty, if and when it is concluded. Certainly as long as no treaty has been drafted and Senator Thurmond has a blocking third of the Senate aligned against the Principles, the JCS would have no need to take a negative stand, in any case.

In early 1958, a few Panamanian students quietly entered the Zone on the Pacific side and planted small Panamanian flags in a predesignated spot. They called the foray "Operation Sovereignty." The flags were quickly removed by Zone employees. It was the harbinger of other, more serious, demonstrations to follow.

On Independence Day, November 3, 1959, crowds of Panamanians, led by students, tried repeatedly to surge into the Canal Zone and raise their flag. Demonstrators assaulted the U.S. Embassy and Information Service offices in Panama, tore down the Embassy flag, and attacked the American Consulate in Colon. U.S. Army units took up defensive positions on the Zone border. Later that month even larger crowds demonstrated and had to be subdued by American troops.

On April 18, 1961, 500 demonstrators tried to storm the Canal Zone protesting the Bay of Pigs and the role of Zone bases in the invasion of Cuba. In January 1964, rival groups of Panamanian and Canal Zone students faced each other at Balboa High School in the Zone over the issue of flying the American flag without the Panamanian flag at the school. The ensuing riots lasted for four days. Sniper fire into the Zone reached 500 rounds an hour at various times. Toll: Four American soldiers and 20 Panamanian civilians killed; over 400 Panamanians and Americans wounded or injured; extensive property damage. From 1964 to 1968 there were riots annually.

On October 11, 1968, the Guardia Nacional seized control of the country after a year of political turmoil. Over the next few months, Colonel (now Brigadier General) Omar Torrijos emerged as the dominant figure in the "revolutionary government."

Treaty negotiations with the U.S. were long underway when Torrijos came to power and were continuing on the third anniversary of the military coup, October 11, 1971. Addressing an anniversary rally of 200,000 Panamanians assembled two blocks from the Zone, Torrijos asked:

"What nation on earth would bear the humiliation of seeing a foreign flag planted in its very heart? What nation would allow a foreign governor on its territory? . . . Our enemies want us to march on the Zone today. When all hope is lost of removing this colonial enclave, Omar Torrijos will come to this same square to tell you: "Let us advance." Omar Torrijos will accompany you, and the 6,000 rifles of the Guardia Nacional will be there to defend the integrity and dignity of the people. But today we are not going to the Zone."

The New York Times concluded that: General Torrijos cannot turn back without losing face. Violence does not seem imminent, but only a satisfactory agreement will prevent future trouble" . . .[19] And the negotiations continued.

COMMENTARY

The Archbishop of Panama, Marcos McGrath, describes the Canal Zone in these terms:

". . . the heartland, the most valuable economic area . . . In Panama today, the growth of her two major cities, Panama on the Pacific and Colon on the Atlantic end of the Canal, is hemmed in by the Canal Zone. Teaming tenements face across the street a fence and open fields or virgin jungles—space unused, space reserved, space denied. Panama City has grown from 200,000 to over 500,000 in the past 15 years. It has had to grow unnaturally along the coast five miles and then cut inland, because of the Canal Zone, creating a clumsy triangle, bottling traffic, and testing the patience of every city planner and in fact of every citizen. Panamanians, to go from one part of their country, in this day and age, still must traverse an area that, though legally it is not, looks like a foreign land: with its own police, courts, post-office, stores, and this across the very waist and heart of the nation." [20]

Senator Alan Cranston has observed that of the 15,000 workers in the Canal Zone, 4,000 are Americans, and of those, 1,289 work on the Canal while the other 2,700 are employed in schools, movie theaters, bowling alleys, commissaries, golf courses, and a zoo.[21]

The Panamanians, for their part, now have the toughest and most charismatic leader in their history. They proved from 1958 to 1967 that they can be tenacious in the drive to establish national jurisdiction over the Zone. They have also shown that, under Torrijos, they are willing to be patient as long as he remains believable. But history does not permit any national leader total control of his people's destiny, or even his own. The General has four alternatives: he can produce a supportable treaty. He can delay. He can leave office. Or he can attack the Zone. Time is running out on the first two.

Footnotes at end of article.

Futures and interests

The Panama Canal has five alternative futures:

A. *Closure* by hostile action, or by an effective decision that it costs exceed its benefits, or both. There is little evidence that points to such an eventuality, though it is as imaginable today as a seven-year closure of the Suez Canal was 20 years ago.

B. *Internationalization* under the auspices of the United Nations, the Organization of American States, or some other multilateral body. This is a theoretical alternative that continue to be discussed, though it would be far beyond the experience, capacity, and interest of the UN or the OAS. Only a military stalemate between the United States and Panama—inconceivable before the U.S.-Vietnam stalemate, and still most unlikely—could lead to internationalization in the foreseeable future.

C. *Ownership and operation by Panama.* The greatest disservice which the present Canal regime does to Panama is not in withholding benefits, but in withholding the burdens and problems of operating the Canal. Some argue that Panama has been cheated out of its fair share of the benefits. Others contend that Panama was handsomely compensated in 1904 for a strip of mosquito-infested, disease-ridden swamp and jungle, and that the Canal and the Zone constitute an economic windfall which Panamanians could have received only from the Americans. Both arguments have merit. But, by assuming all the burdens of running and protecting the Canal, the United States has denied Panama the experience and the challenge it needs to reach its full maturity as a nation. Panamanians consider their geographic position, which the Canal exploits, to be their principal national resource. Yet, with its management pre-empted by Americans, they are not prepared to assume control of this resource. A new treaty might permit their gradual assumption of operational authority, but Panamanians are neither determined nor able to take full charge in the foreseeable future.

D. *Continued ownership and operation by the U.S. alone.* If the U.S. government decides to hold the Canal and the Zone, it can probably do so for a period of years and perhaps until the Canal's commercial and military asset-value declines to a negligible level. The cost could be high and should be estimated in advance.

E. *Partnership between the United States and Panama.* This alternative is only feasible if the U.S. is genuinely willing to relinquish its exclusive jurisdiction over the Canal Zone. In the words of Ambassador Vaughn, "Intransigence . . . can only inflame the Panamanians, for they now feel grossly abused" by the existence of the American colony.[22] If the political, economic, and cultural insulation of the Zone were to disappear, Panama would be drawn inevitably into an evolving operational partnership with the United States in the Canal's support, management, maintenance, defense, and possibly in its further development.

The United States has only three essential objectives relating to the Panama Canal, according to the Atlantic-Pacific Interoceanic Canal Study Commission:

1. That is always be available to the world's vessels on an equal basis and at reasonable tolls;

2. That it serve its users efficiently; and

3. That the United States have unimpaired rights to defend the Canal from any threat and to keep it open in any circumstances, peace or war.[23]

An American treaty negotiator, authorized to speak for the Executive Branch, subsequently omitted the Study Commission's second objective on efficiency and added:

That the United States have the right to expand Canal capacity, either by adding an additional lane of locks to the existing Canal or by building a sea level canal.[24]

Panama's interests and intentions are:

Negotiate the Zone out of existence;

Failing that, try to make it too expensive for the U.S. to stay in Panama, recognizing that dollar costs alone may not be very impressive to Americans;

Either way, assume an active role in operating and protecting the Canal.

Problems of Awareness and Attitude

The real content of the Panama-Canal Zone issue may be as much psychological as it is military or commercial. No problem of current international affairs is more encumbered by national pride, convenient misconception, legal abstraction, and ignorance.

Americans have not been perceptive or even consistent about Panama. Theodore Roosevelt could boast one day, "I took Panama," and another day proclaim:

"We have not the slightest intention of establishing an independent colony in the middle of the State of Panama . . . it is our full intention that the rights which we exercise shall be exercised with all proper care for the honor and interest of the people of Panama."

For three generations American democracy has been absent in the Canal Zone, where public officials are not elected, but imposed. Civilian control of the military is inverted: the Governor is a major general, but distinctly junior to the local troop commander. The Zone economy is state socialism, with 95 percent of the productive capacity concentrated in the hands of the government.

The world may well wonder whether the United States knows what it is doing in Panama.

Options and Costs

Given the alternatives governing the future of the Panama Canal and the basic American objectives, there are only two operative choices for U.S. policy: we can pursue our goals in active cooperation with, or in opposition to, the Panamanians. Panama will not participate directly in that decision, but will presumably impose costs for either course.

MAINTAINING THE STATUS QUO

One option is to hold the Canal Zone while we have the capability to fortify and defend it against Panamanians.

Senator Alan Cranston stated in October 1971 that the U.S. Armed Forces had—out of 40,000 officers, men, and dependents in the Zone—only two battalions of Army combat troops and no high performance combat units from the Air Force and Navy.[25] But reinforcements are available, and CINCSOUTH presumably learned from its experiences in January of 1964; for example:

That the Guardia Nacional cannot always be relied upon to restrain attacks upon the Zone;

That small arms fire from the Zone into the Republic is not an adequate response even to a few snipers;

That the command had better have its own search-and-destroy capability in any serious future confrontation;

That some of the civilians in the Zone (including 8,000 women and 15,000 children) could become casualties or hostages almost instantly, in the absence of adequate contingency planning, security, fortification, tactical preparedness, and evacuation procedures.

Foreseeable costs of this choice could include the following:

1. Military expenditures and manpower commitments of significant, but not burdensome, levels would have to be made.

2. The United States would have to make the Zone less accessible to unauthorized entry from the Republic and less vulnerable to amphibious landing, an expensive and exacting task, but not prohibitively so.

3. Despite these defensive measures, some exposure to sabotage, guerrilla attack, or assault by regular military units from the Republic would persist. Such moves, even when easily repulsed, have already involved serious costs even though they have not yet included an act of sabotage or interruption of Canal operations.

4. An overt decision to maintain the status quo in the Zone would undermine the U.S. leadership position in the hemisphere. If it were followed by another bloody episode in or around the Zone, U.S. political leverage would be further diminished and could result in violent responses directed at our enterprises, diplomatic establishments, and citizens throughout the region. The Latin Americans have never before been as united and outspoken in support of Panama's grievances against the United States. An issue that was essentially bilateral in the 1950s has become a matter of legitimate hemispheric concern. Even the United States has acknowledged this by accepting OAS investigation, mediation, and oversight.

5. The world community would condemn U.S. efforts to hold the Zone indefinitely. While most of the countries which use the Canal are interested mainly in efficient operation and reasonable tolls, no civilized nation can be oblivious to a breach of international peace, or the threat of it. This was, in part, the motivation for the Security Council's effort to intervene in 1973.

Most colonial powers that have tried to retain their possessions in the developing world have come to regret it. At a minimum, we should avoid striking a posture that is at once domineering and weak. We should decide in advance, as we regrettably failed to do in Southeast Asia, how many more human lives this real estate is worth to us, and for what period of time. Once the escalation begins it is too late for that kind of analysis.

PARTNERSHIP

Alternatively, the United States could sign and ratify a treaty along the lines of the February 7 Principles. This approach would not rule out Canal defense bases, but it would assume that the U.S. will acknowledge effective Panamanian jurisdiction over the land on which the bases would be located.

Loss of American property would be a direct cost. But the major disadvantage of the partnership option lies in the irretrievable loss of absolute U.S. authority over the enterprise. More specifically:

1. Once we relinquished our position in the Zone, the increasing Panamanian involvement might serve to dilute the operational effectiveness of the Canal.

2. If efficiency declined, world shipping, including our own, would suffer.

3. The United States, having assumed an obligation to the maritime nations and to world commerce, could be criticized for allowing the Canal to deteriorate.

4. Ultimately, the waterway might be closed because of some failure of the Panamanian partners, or the joint management, to perform. While the Canal is no longer a strategic asset against any conceivable enemy, it is still possible that its loss to the United States could in some future national emergency be significant, or even crucial.

In a world of accelerating and violent change accompanied by increasing uncertainty, the United States should not yield military and commercial advantages without careful analysis and commensurate incentive. However, if Americans have a national interest in protecting a distant enterprise that can be marginally useful in their defense and affects less than one percent of their GNP, the Panamanians might have even greater motivation to protect the Canal. It is on their territory, provides almost a

Footnotes at end of article.

third of their GNP, and constitutes their primary national resource.

ACCOMMODATION WITHOUT A TREATY

Even if the Administration persists in its determination to achieve an accommodation with Panama, its objectives are, for the moment, thwarted by a decisive bloc in the Senate and a potent group in the House, as well. Also, judging by past performance, the JCS is probably capable of producing additional legislative obstacles to any new treaty, if necessary. The Administration knows it could not have obtained ratification of a treaty before the November 1974 elections, which means February or March of 1975 would be the earliest. Much will depend on President Ford and the composition of the new Senate.

Should it become impossible to negotiate a treaty, the Administration—assuming it moves fast and decisively—could head off an immediate confrontation and buy additional time through direct executive action. If the same creative energy that built the Canal Zone were applied to dismantling it, that would probably be sufficient. For example, the Administration could:

1. Drastically reduce the numbers of civilian and military personnel stationed in the Zone.

2. Bring all dependents home, except those of civilian personnel whose permanent employment is critical to the operation of the Canal itself. (This would automatically reduce the visibility of the U.S. government enterprises which Panamanians find most disturbing: golf courses, theaters, commissaries, post exchanges, bowling alleys, swimming pools. It would also stimulate the use of privately owned Panamanian commercial and recreational establishments, bringing Americans and Panamanians into more natural contact with each other.)

3. Appoint a civilian Governor of the Canal Zone who speaks Spanish and who is acceptable to Panama, and give him authority over CINCSOUTH, except during a military emergency.

4. Make Spanish a second official language of the Zone for one year, and the only official language thereafter.

5. Require that (a) all U.S. military and civilian personnel study Spanish under Panamanian instructors, and (b) all personnel whose assignment to the Zone is for two years or more attain a working knowledge of the language within one year.

Ambassador Robert Anderson who headed the U.S. negotiating team from 1964 to 1973 acknowledged to his State Department colleagues that he had a recurring "nightmare" of collapsed talks, shattered expectations, exploding emotions, and the Zone under siege. The proposed course of action might avoid that kind of deterioration, provided the Administration maintained credible efforts to conclude a treaty at the earliest date.

Insofar as Panama is concerned, the Commission on United States-Latin American Relations came into being at a fortuitous moment. With the observations outlined here, and the additional evidence which will doubtless be presented by interested parties, the Commission should be able to weigh the alternatives, and reach a sound position on this urgent issue of foreign policy.

Senator Thurmond holds that "there is no way that any treaty can adequately protect and defend our interests in operating the Canal when it has as its basis the abrogation of sovereignty."

Ambassador Vaughn considers Panama "a Latin American Vietnam." He finds that through the collaboration of Congressional and military supporters of the Canal Zone, "Presidents' orders have been reversed, diplomatic maneuvers and decisions brushed aside, and the United Nations told to go to hell." And he concludes, "The tinder awaits the spark."

Neither of these admonitions can be disregarded. Likewise, we ignore at our peril the public commitments of national leaders abroad: indeed, it has been the commonest error of American foreign policy during the past four decades.

FOOTNOTES

[1] Cf. Lyman M. Tondel, Jr. (ed.), The Panama Canal (New York: The Association of the Bar of the City of New York, 1965), pp. 42, 43.

[2] Robert G. Cox, "Questions Concerning the Panama Canal: A Preliminary Opinion" (New York: Transnational Consulting Group, 1973), p. 24.

[3] Panama Canal Company, Canal Zone Government, *Annual Reports, 1968–1973* (Balboa Heights).

[4] Senate Resolution 301, 93rd Congress, 2nd Session, March 29, 1974, p. 3.

[5] Report of the Atlantic-Pacific Interoceanic Canal Study Commission (Washington, 1970), II–11.

[6] Ibid., II–11.

[7] Ibid., II–20, 21.

[8] Interview, May 14, 1974.

[9] Interview, May 10, 1974.

[10] Cameron, op. cit., p. 4.

[11] Canal Study Group, op. cit., pp. II–11, 12.

[12] Jack Hood Vaughn, "A Latin-American Vietnam," *The Washington Monthly* (Oct. 1973), pp. 30, 31.

[13] Interview with Senior Department of Defense Policy Officer, May 10, 1974.

[14] For summary of the State Department position see News Release, op. cit., p. 6.

[15] Ibid., pp. 2, 3.

[16] Senate Resolution, op. cit.

[17] *The New York Times*, May 7, 1974.

[18] Subcommittee on Panama Canal, Hearings, Serial No. 92–30 (Washington, 1972), pp. 13–16.

[19] *The New York Times*, Oct. 12, 1971.

[20] "The Canal Question: A Christian View," address before Carnegie Endowment for International Peace, April 16, 1974.

[21] *The New York Times*, Oct. 19, 1971.

[22] Cf. Vaughn, op. cit., p. 32.

[23] Canal Study Commission, op. cit., pp. 8, 9.

[24] Hearings, Serial No. 92–30, op. cit., p. 5.

[25] *The New York Times*, Oct. 19, 1971.

LESSONS FROM RACIAL HATRED

Mr. MATHIAS. Mr. President, every now and then, some event occurs which is so portentous in nature that our interest and concern become aroused beyond the ordinary level at which we treat daily affairs. Human Kindness Day may well represent one such event.

Washington Post Columnist, William Raspberry, has taken a look at what happened on the Washington Monument grounds two Saturdays ago. His comments, which appeared in the Washington Post's May 19 edition, should be carefully read and reflected upon by all.

One point he made "That what you say to one is heard by all. And some do not always hear it right," struck home with me. It might do well for all public officials, especially those in the Metropolitan Washington area to be guided by those words.

In the coming months, each jurisdiction within the National Capital region will be presented with several major decisions affecting the metropolitan area. What is decided by one local government, therefore, will have a bearing on most, if not all of the others. Without question, the issues contained in each decision will be thorny and perhaps emotional; that is to be expected since public transportation, health care planning, law enforcement, and taxation are all issues which directly touch the lives of every citizen. The manner in which public officials in the metropolitan area respond to and discuss these issues in public forums, however, is equally critical. For what we say, and how we say it, may well influence the attitudes and behavior that neighboring communities will display toward each other.

Will we, out of some misguided sense of parochialism, cavalierly play to a narrow constituency without care for the message we send to our neighbors? Or will we act out of a recognition that the National Capital region is indivisible; that each community's major problems transcend her borders; and that the best long-range interests of all are served when the region as a whole lifts its sights and goals beyond immediate consideration of which community and what group within will achieve some immediate and possibly short-lived gain.

Mr. President, I ask unanimous consent that Mr. William Raspberry's article entitled "Lessons From Racial Hatred" be printed in the RECORD.

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

LESSONS FROM RACIAL HATRED

(By William Raspberry)

D.C. Del. Walter Fauntroy was participating in a Human Kindness Day TV *post mortem* the other day when he said something that has occurred to a lot of us.

It's time to move beyond the particulars of that day, he told a "Nine in the Morning" (WTOP) audience, and to start asking ourselves why our children are so full of race hatred.

It's a fair question, and I'm afraid that part of the answer is that they learned race hatred from us—from black adults, militant and moderate alike, who tried hard to teach one lesson and inadvertently taught another.

What we tried to impart was some understanding of the pervasiveness of racism in America. It was our feeling that it was necessary that our children learn the bitter truth about racism in order that they might learn to deal with it.

Some of them learned the lesson, all right. Others got only a piece of it and concluded that if white racism is bad, then white people must be bad. And anyone who had trouble distinguishing between white racism and white people might be led to suppose that the way to fight the former is by attacking the latter.

The need always was for two forums, one of addressing whites, the other tuned to blacks.

That way we could have taken a phenomenon like the 1960's riots and told white people—quite *truthfully*, by the way:

This is the result of racism. This the price you pay for the continued denial of opportunity. This is what you get when you permit a selected handful of black people to enter the American mainstream but leave the rest behind in the interest of maintaining white supremacy.

We might have sent the children out of the room while we were delivering that message, recalling them to hear this one:

You see what's happening in the streets? That is the result of frustration spawned by denial of opportunity. But look more closely, and you'll see that while it registers

frustration, it really doesn't accomplish much that's positive for the people in the street. I want you to understand what's happening out there, but I also want you to know that there are better, more effective, more personally rewarding ways of doing it.

We would have driven home to white people the fact that bigoted chickens do come home to roost. And we would have spoken to blacks of the necessity for personal responsibility.

We would have preached two sermons, not because we are two-faced but because we would have hoped to inspire two sorts of action.

For white people, the message would have been: Don't suppose that the effects of racism end with the passage of civil rights laws. Look around and see how much racism remains in your individual attitudes and practices, how much of it has been structured into your very institutions. Let's work on that.

For blacks, the message would have been: Of course you find yourself in a hole because of racism. But you have to understand that blaming white people won't get you out. That's a job you will have to do for yourself. Don't waste too much energy waving your hands about in blame, or you might be too tired for the work of digging out of that hole. Let's work on that.

We couldn't have wanted white people to hear that last message for fear they might read it as exoneration. And, face it, white guilt has been a major element in some of the recent black gains.

Some of us do manage to separate—or perhaps more accurately, to integrate—the two messages when it comes to dealing with our own sons and daughters.

We try to give them the sophistication to understand about racism. But we also teach them, by precept and example, that they are not to wallow in self-pity nor lash out in rage at some generic enemy but rather to understand in order to deal. We let them know that they are personally responsible for their choices and actions and that no amount of blaming white people will get them off that hook.

We help them to put racism in the context of hurricanes, earthquakes and other natural disasters—not to embrace it but to overcome it, to achieve in spite of it.

You can do that with your children. But the nature of mass communication is that what you say to one is heard by all. And some don't always hear it right.

This is, of course, not the whole explanation of what happened on the Washington Monument grounds on Human Kindness Day. For one thing, most people—by about a thousand-to-one margin, in fact—seemed to absorb the message. And among those who didn't, there was undoubtedly a strain of just plain thuggishness, directed at whites that day but maybe at blacks the day before and the day after.

But I am afraid that there may have been some in that crowd who thought they were doing something that had our approval.

That's one message we'd better get straight in a hurry.

THE COMMUNITY SERVICES ADMINISTRATION PROGRAM FOR THE DISADVANTAGED-MINORITY VIETNAM VETERANS

Mr. JACKSON. Mr President, one of the saddest legacies of the Vietnam conflict has been the plight of many thousands of educationally and economically disadvantaged veterans many of whom are minorities from inner city backgrounds. These veterans served their Nation during a long and unpopular war and have received little gratitude or understanding in return. For this reason, I am extremely pleased that the Senate Appropriations Committee has included in H.R. 5899, the second supplemental appropriations bill, my amendment to provide $5 million in the Community Services Administration budget for the resources to assist these veterans with their problems.

Last week the Senate passed legislation to provide $405 million in adjustment assistance for the refugees of the Indochina war. We took this action because it was in the American tradition and it was right. It is also right and in our tradition to provide for the hundreds of thousands of American GI's who served their Nation and came back from Vietnam with drug problems, without the skills or training necessary to obtain a job, with bad discharges which prevent them from utilizing the GI bill and with a myriad of other problems which have caused these veterans to fall back into a "cycle of poverty."

OEO was created because traditional agencies failed to reach minority and lower income people with problems. OEO has been successful in disseminating many of its means of operation to other Federal, State, and local agencies. In the case of Vietnam veterans, however, there are problems of poverty associated with hundreds of thousands of lower income and minority veterans that are simply not being faced by the traditional agencies for dealing with veterans' problems. That is why community action agencies which have credibility in cities must have the funds which can give them the means to serve veterans facing unemployment, bad discharges, drug problems, lack of housing, emotional problems and many other problems.

For example, unemployment for young veterans—age 20–24—is now 22.8 percent; 400,000 veterans have bad discharges many of which are drug related. These problems have persisted and have gone unmet since 1969 when veterans began returning in large numbers.

One program which has attempted to focus in on the problems of the disadvantaged minority veteran has been the Veterans Education and Training Service—VETS—funded by the Office of Economic Opportunity. I am very proud of the effort this program has made with very limited resources. I am very proud to have played an important role over the past year to prevent this program from being abolished by the Nixon and Ford administrations.

The inclusion by the Appropriations Committee of my amendment to provide $5 million in the CSA budget to continue this program means that the Nation will not forget these veterans and that community action agencies in approximately 70 communities will be able to provide much needed readjustment assistance for these veterans.

I ask unanimous consent to have printed in the RECORD a statistical summary of the achievements of the existing 19 OEO veterans outreach projects and a copy of a recent article from the magazine Nation's Cities describing the VETS project in Chicago. This project has been particularly effective and this is a tribute to the active involvement of the Chicago city government and the local community action program in behalf of veterans.

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

NATIONAL LEAGUE OF CITIES/U.S. CONFERENCE OF MAYORS VETERANS EDUCATION AND TRAINING SERVICE (VETS)

INDIVIDUAL CITY PROJECT PERFORMANCES AS OF MARCH 1975 (CUMULATIVE TOTALS FISCAL YEAR 1975)

	Placements			Other services [1]	
	Contracts	Education and training	Job	Direct	Referral
Cincinnati	1,798	207	186	320	68
Aayton	1,277	229	98	157	150
Dtlanta	2,059	696	128	632	217
Savannah	1,150	301	51	158	146
Bridgeport	1,832	541	23	59	131
Baton Rouge	921	160	248	95	119
New Orleans	898	139	58	55	73
Rochester	1,008	216	230	345	172
Salt Lake City	2,120	195	132	735	226
San Diego	576	208	42	65	590
Milwaukee	795	371	24	97	360
Norfolk	2,584	183	499	14	712
Cleveland	947	402	114	47	46
Indianapolis	1,466	150	32	52	49
Detroit	1,399	864	4	27	11
Chicago	2,000	1,039	159	103	347
Denver	1,419	162	59	44	73
Los Angeles	1,852	705	76	12	268
Seattle	2,684	382	212	376	225
Total	28,785	7,150	2,375	3,393	4,023

[1] Other services includes drug counseling, bad discharges, housing, other referrals, etc.

NEIGHBORHOOD PROGRESS CENTERS AID VETERANS

(By Stephen R. Conn)

The picture taking had ended and it was time for the next contingent of visitors to be ushered into Mayor Richard J. Daley's office. It was all very automatic. Like any other big city mayor, Chicago's chief executive poses for countless group photos weekly. But this time there was a difference.

The feisty Mayor stopped Robert L. Hill, National Director of the League and Conference's Veterans Education and Training Service (VETS) before he reached the door.

"What are you going to do about those poor guys with less than honorable discharges?" he asked. "Your heart has to go out to these fellows."

Hill briefly outlined VETS' efforts in this area and the mayor looked pleased.

"I'm tired of talking to the generals in the Pentagon," said Richard Daley. "It's

about time we did something to get these veterans good jobs and education."

"That's what we're all about," said Jim Ellis, director of Chicago's Office of Veterans' Affairs, after leaving Richard J. Daley's office following a photo session with the mayor. "Jobs, education, and the upgrading of bad discharges."

Chicago's Office of Veterans' Affairs is supported, financially and logistically, by the city's Model Cities program and the VETS project of the National League of Cities and U.S. Conference of Mayors. It is one of the brightest stars in the firmament of the project's efforts in 19 cities nationwide.

Operating out of a dozen urban progress centers situated in the sleazier sections of Chicago, Jim Ellis' organization has contacted nearly 6,000 veterans in its two-and-a-half year existence. It has found jobs for more than 1,500 of them and its enrolled more than 2,000 in school.

Jim Ellis supervises the work in the area of veterans' affairs of the 12 Urban Progress Centers from a stark, white walled fluorescent-lighted cubicle without windows on the third floor of the building housing Model City Headquarters at 640 North LaSalle Street. Jim is called "Tank." He seems too big for the room. In fact, the six-foot-210 pounder, was a two-time All-American defensive half-back for Michigan State in the early 1950s.

The real work of the project is not done at 640 North La Salle, however.

It takes place in the Woodlawn Urban Progress Center (UPC) on Chicago's 63rd Street, the counterpart of Harlem's 125th. Except the once proud 63rd Street now displays shattered windows and shells for buildings.

Its effects are felt in the South Chicago UPC in an equally poor and equally black part of town.

It helps the veterans who stream through the doors at the Montrose UPC in a section of the city that "gets them all—the white, black, brown, and Indian," according to Dennis Lindsey, the Veterans' Adviser there.

And it extends a helping hand at the ultra-modern Garfield Community Services Center in a part of town that is as poor as the rest, where Vets Adviser Jonas Jones holds forth.

"I've always been concerned with vets," says Jones. "Vets have always been getting the short end of the stick." Jones served with the Americal Division in Vietnam from February 1968. He received shrapnel wounds in the back and hands.

The project counsels, cajoles, supports, advises, and gets jobs, educations, and other help and services for veterans in the eight other centers that comprise the 12-center network.

"When we started the Vets project I promoted the idea of decentralization," says Bob Hill, whose undertaking was launched in February 1971, four months after the Chicago effort had already begun. "Chicago is proof that the model does work and it works very effectively."

Indeed, decentralization appears to have been one of the principal keys to the Chicago effort's success.

Charles Beauford is a 30-year-old black vet who lives within walking distance of the Woodlawn UPC. When his wife left him, she also left him with two children to care for. A high school dropout, Beauford now attends Loop Junior College where he is majoring in sociology.

In the time that he is not in class or caring for his children, he is putting together an organization called "The Normal Action Recreational Program for the Physically Handicapped."

"My ultimate goal is to head a national program to help people," he says. And he adds, "Primarily vets."

Charles Beauford was a vet who needed help. He didn't want to go to the Veterans Administration because of its inaccessibility and the red tape he feared he'd find once he got there. So he came to his neighborhood UPC, which started the ball moving by enrolling him in a General Education Development (GED) program. This enables the vet who has not finished high school to get the equivalent of a high school degree. Last year 500 vets were enrolled in GED classes through the Chicago project.

"If there had been no UPC I doubt that I would have sought help" he now says. "I'm sure I would have ended up doing something illegal to survive."

George Abrams, the vets adviser at Woodlawn, is the man who encouraged and worked with Beauford. He served as a Marine Corps sergeant in Korea during the mid-50's. Unlike the recruiter-coaches, he does not have to be a Vietnam-era veteran attending college as the contract with VETS requires:

"We're like a sub-VA," says Abrams. "Except that we provide the veterans with a personal touch and don't keep them waiting around with 50,000 other veterans."

Each UPC has a recruiter-coach, whose job is to find the veteran who needs help.

"We'll go anywhere to find them—from a church to a pool hall," says Montrose's Dennis Lindsey.

Once the vet is reached, registered, and entered in the project's files, the vet adviser does the follow-up: enrollment in school, job placement, drug treatment.

Sarah Dogan is the recruiter-coach for Woodlawn. An Air Force veteran in her early '30s, she's an intense black woman who had dropped out of high school, and now with help from the project, is studying on scholarship for a B.S. in social science at George Williams College in a suburb of Chicago. With a 3.92 academic average out of a possible 4.0, she plans to get her masters there and ultimately a Ph.D. from the University of Chicago.

"I'm interested in people," says Ms. Dogan. "I'd really like to eventually work in a vets hospital because they're people with very special problems."

Like the VETS project, the Chicago effort is concerned primarily with the Vietnam-era veteran. He has become a victim of an unpopular war that everyone wants to forget and consequently is the new "forgotten American." But both VETS and its 19 satellite efforts have not forgotten those who served in other times and places.

It didn't take long for James Brown, 41, to realize when he enlisted in the Air Force in February 1950 that the military was not for him. He left eight months later with an undesirable discharge. He entered the service with two years of college. Since leaving he's had a succession of manual and low paying jobs, the last of which was as a construction laborer. Now Brown wants to upgrade his discharge, get his GI Bill benefits, which have been denied him thus far, and go back to school.

"I want to finish college and make something of myself," he says.

The commitment to the veteran of the local and national efforts is reflected in the impressive statistics posted during the past year. Working with its third annual one million dollar grant from the Office of Economic Opportunity, VETS in 1973 contacted and serviced more than 155,000 men and women nationally. In its nearly three and one half year existence the project has helped some 225,000 veterans get jobs, education, legal, medical and other much needed services.

The project has been part of the VETS efforts since November, 1971. It is one of the original 10 pilot cities. Originally VETS assistance was solely in the areas of education and vocational training. Last May, when VETS expanded to 19 cities it enlarged its program to become involved in social and legal services.

"The problems of the Vietnam-era vet run the gamut" says Bob Hill, "particularly in today's rapidly changing society. Our expansion into these other problem areas have made us more relevant and effective to veterans."

Jim Ellis points with pride to the accomplishments of his project during the past year. They include, in addition to the placement of vets in jobs and educational institutions:

Establishing a working relationship with additional colleges and universities in the Chicago area and helping them set up Offices of Veterans Affairs.

Increasing Veterans Administration approved GED classes by three within the project area.

Establishing an "Operation-Input Committee" comprising 27 agencies, institutions and organizations geared toward meeting the needs of veterans and their dependents."

Ellis credits VETS with suggesting "Operation-Input." Among the Committee's accomplishments was the publication in March of a Veterans Social Service Directory. It lists various organizations which can help the vet. One of those mentioned is the Mayor's Jobs for Vietnam Veterans, headed by Ted Coleman. Ellis and Coleman maintain a close working relationship.

"He sends people to me for help and I send vets to him," says the affable Coleman.

"With this and with "Operation-Input" we don't care who gets the credit. All that's important is that we help the veteran."

SENATOR HUGH SCOTT HONORED AT TESTIMONIAL DINNER

Mr. TOWER. Mr. President, our distinguished minority leader, Senator HUGH SCOTT, was recently honored at a testimonial dinner in Philadelphia given by the American Friends of Lubavitch. On that occasion, President Ford joined in commending Senator SCOTT for his outstanding efforts on behalf of Israel and the Jewish community in general.

Citing the dedication of a library center in Israel to Senator SCOTT and his wife, Marian, the President said:

[It] is a fitting honor signifying as it does the wealth of knowledge which man has gathered through the ages and the use of that knowledge in constructive and purposeful purposes.

Mr. President, for the interest of my colleagues I ask unanimous consent that President Ford's comments in honor of Senator SCOTT be printed in the RECORD.

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

REMARKS OF PRESIDENT FORD AT THE FRIENDS OF LUBAVITCH PATRON RECEPTION FOR HUGH SCOTT

Mr. Speaker, Senator Scott, and lovely wife, Marian, distinguished guests, ladies and gentlemen:

I am really honored and privileged to be here with the American Friends of the Lubavitch.

Obviously, it is a great privilege and pleasure for me to be here today to join with all

of you in honoring my very, very good friend, Hugh Scott, a colleague of mine in the Congress for many, many years.

I am deeply grateful for the many, many instances where Hugh has given me good counsel and fine support, and there is no way that I can ever adequately repay him for his friendship. I might even go so far to say that Hugh is one of the first people I turn to when I have tzores. (Laughter) And in the last few weeks, I have had tzores. (Laughter)

Today it gives me a great deal of personal pleasure to add my voice to yours as we say to Hugh Scott on this very, very special occasion, Mazel Tov.

I think we all recognize the countless ways in this great country, not the least of which is the quality and the character of the men and women to give life to America. The leadership of a great people in a democracy makes special demands on public officials.

We must have the desire to know what is on the people's minds, the wisdom to know what is in their heart and the courage to know what they do is right.

All of these qualities are possessed in abundance by the man we honor today. I have known Hugh Scott for 27 years. I have been, as I said earlier, his personal friend, and I have admired his professional integrity.

There are very, very few public officials who have so successfully combined the serious duties of statesmanship with the good humor and the good grace which are Hugh Scott's trademark.

We honor Hugh today for his staunch and steadfast support he has given to the state of Israel since its creation 27 years ago. It is an honor he richly deserves, and I know that he cherishes it. The rest of the Nation continues to honor him as a man of conviction with a talent for compromise; a man of experience who looks into the future; a man of integrity with a little twinkle in his eye; a man with intellect who can do battle with the best of them in the toughest struggle in the Congress, or in any other political arena.

This is the total man that I know as Hugh Scott, a man that the Commonwealth of Pennsylvania dearly loves—the man today that you honor and pay tribute to. The library center in Israel, which you are dedicating to his name, and that of his lovely wife Marian, is a fitting honor signifying as it does the wealth of knowledge which man has gathered through the ages and the use of that knowledge in constructive and purposeful purposes.

Nothing could characterize better Hugh's own life, nor reflect more accurately the philosophy of your movement. You are committed to preserving the deep and very abiding faith of the Jewish tradition for young and succeeding generations.

Your devotion has won the respect and the admiration, and I may say, the appreciation of thousands in this country and around the world. One reason is the leadership of Rabbi Schneerson, who is observing his 25th anniversary this year as the head of this movement.

My wish for you tonight was best said by one of my predecessors in the White House, and I quote, "May the children of the stock of Abraham who dwell in this land continue to merit and enjoy the good will of other inhabitants."

And the quotation goes on as follows: "May the father of all mercy scatter light, not darkness, in our paths and make us all in our several vocations useful here and in his own due time and way, everlastingly happy."

The President who wrote those words was George Washington. The year was 1790. The spirit of what he said is as alive today as it was then.

My congratulations to Hugh Scott, to Marian, and my thanks to all of you for letting me join with you in paying this tribute to them.

May God bless you all.

SENATOR McINTYRE ADDRESSES FOREIGN POLICY AND ARMS CONTROL ISSUES

Mr. McGOVERN. Mr. President, our colleague from New Hampshire (Mr. McINTYRE) recently delivered an extremely important address on détente and on post-Vietnam foreign policy. His remarks deserve widespread attention.

Senator McINTYRE calls upon both "hawks" and "doves" to undertake a searching analysis of truly valid U.S. security interests. And he underscores what I agree must be the overriding aim of this reexamination, pointing out that—

A central test of this new foreign policy will be whether it will enable us to discriminate—to differentiate between our broadly agreed upon security interests and those other temptations which are not in our interest.

The Senator also notes the need for a more complete definition of security—a case which I have argued for a number of years. He points out that—

Our economic stability, our sense of rightness, our internal unity and our collective will are as important to our security as troops and arms.

By defining our prime national security interest in this broader, more realistic way, we will be able to distinguish between real threats which we must oppose as a unified nation and instances such as Vietnam where we were drained and divided without being attacked.

Senator McINTYRE also addressed strategic arms issues. His thoughts in that area carry special weight because of the expertise he has developed as chairman of the Armed Services Committee's Subcommittee on Research and Development.

His message on the new drive for counterforce weaponry is especially compelling. As Senator McINTYRE points out, counterforce is not simply a logical next step to fill an established nuclear strategy. Rather, it is a dramatic and dangerous departure from the policy of mutual deterrence—and mutual vulnerability—which has allowed us to achieve at least a small measure of stability in the realm of nuclear arms. According to Senator McINTYRE:

Altogether these proposals represent a radical revision of our strategic policy from one of nuclear deterrence to one of nuclear warfighting . . .

(The) shift to nuclear warfighting doctrines and technologies actually diminish our national security by putting a hair trigger on nuclear war, by drawing fire in a period of crisis, by distracting us from our critical strategic task which is to insure the survivability of our deterrent, and by throwing doubt on the central premise of SALT which is the principle of mutual vulnerability.

I hope the Congress and the country will heed this warning. Our negotiators in SALT II were forced to carry the heavy burden of MIRV, because similar warnings were not heeded 5 or 6 years ago. The shape of the Vladivostok accord demonstrates that MIRV was a heavy burden indeed. But counterforce weapons and strategies are still more serious. As Senator McINTYRE points out, if we accept counterforce we will not simply approve a technical refinement; instead we will discard the strategic policies which are most crucial to arms control.

We will debate these issues in some detail when the military procurement bill is before the Senate. Senator McINTYRE's address, which was delivered May 5, before the International Studies Council at the University of New Hampshire, can serve as an excellent background for that debate. I commend it to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

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

SECURITY THROUGH DÉTENTE: LIMITS AND POSSIBILITIES

(By U.S. Senator THOMAS J. McINTYRE)

No problem is more troubling or immediate than that of America's role in the world today. It is now less than a week since the American Embassy closed its doors in Saigon and brought American involvement in the Vietnam conflict to an end. Every morning's paper, every evening's news, painfully remind us of the bitter fruits of our errors there. In the Congress, months of hearings and internal deliberations are about to surface in a major public debate on America's military defense posture. It is in this context that I take up the question you posed for me today: "Security and Détente?"

Of course, détente is a name that has arisen in the last 5 or 6 years to describe a process of negotiations between the U.S. and the Soviet Union. And although the Presidents Truman, Eisenhower, Kennedy and Johnson each tried in their own way to develop such process, there is no question that the process has blossomed during the Nixon-Ford Administration and the diplomacy of Henry Kissinger.

Détente like most words in the public arena, is a term that has lacked precision and has been embarrassed as a result.

Détente is more than our being treated to the art of Olga Korbut and the Russians drinking Pepsi-Cola, however refreshing both may be.

Surely détente is more substantive than the personal diplomacy, pious rhetoric and show biz public relations which from time to time have threatened to obscure whatever real security gains we have derived from détente.

Surely détente does not mean that we must take leave of our good senses and surrender the tradition of the Yankee trader as we did in the wheat deal and as I fear, we may in the continued export of certain critical advanced American technologies. Surely détente does not mean that we must trade substantial concrete concessions for a mess of abstractions.

Nor is détente so fragile that we, the U.S. should inhibit ourselves from expressing our own best values as we did when our government failed to state plainly and flatly our indignation about the Soviet's treatment of Solzhenitsyn and his courageous associates.

No, the critical test and meaning of détente is whether this process of negotiation has produced solid results which enhance our own national security. It is this question—which you properly posed—that I want to address today.

Let us first realize that many of the most pressing threats to our security are outside the frame of a U.S.-Soviet detente. Terrorism, nuclear proliferation, hunger, the life of the world's oceans, worldwide inflation and historical regional hostilities—all of these and other dire threats to our national security and world stability are either at the edge or outside the reach of a detente between the two super-powers.

Of course, detente, when it works, can give the world a model for the resolution of intense differences on these matters. It also can help avoid escalation of tensions between non-super-powers into confrontations between the nuclear powers. Ideally, the combined resources and leadership that the two super-powers could bring to bear on these common problems of the world community represent an enormous potential for detente. But this promise is for the most part as yet unrealized. So let us remember that many of our most critical security problems are beyond the capacity of even the two super-powers to resolve through detente even at its best.

There is a second major way in which our security problems lie outside the reach of detente.

The ability of the U.S. to defend its real security interests and avoid involvements that would hurt us will depend primarily on our own ability to define our own security interests discriminately. Until we do so, neither detente nor any other external process will be of much help.

Let us remember that détente is not an alliance nor a friendship. It certainly is not a mutual admiration society. I assume the Soviet and U.S. governments will continue to have a protracted rivalry throughout the world.

Detente may well moderate direct confrontation between the two super-powers, but the problems facing the U.S. because of its entanglements throughout the world are larger than U.S.-Soviet rivalry. And the Soviets may, on some occasions, seem to help us cool a conflict if it threatens to involve them directly.

But I am skeptical that they will renounce attempts to exploit tensions and to gain unilateral advantage or renounce claims of special influence in the world even though they affirmed these principles with us in Moscow in 1972.

Even if the Soviets would stop fishing in troubled waters, the U.S. will continue to face, particularly after Vietnam, a maze of challenges around the globe. We certainly cannot expect the Soviets to bail us out of embarrassing entanglements because of detente, to say the very least. The answer to this problem is in ourselves.

The prime internal task before us is to learn from Vietnam to discriminate in the kinds of commitment that this Nation chooses to make and guarantees. Otherwise we either will continue to be drawn into conflicts against our interest or fail to recognize challenges which must be opposed as a unified nation.

The American people and our adversaries and allies as well are, after Vietnam, a bit like Mark Twain's cat—who once sat on a hot stove. Twain said that his cat never sat on a hot stove again—but neither did he sit on a cold one.

We must learn as a Nation what Twain's cat never learned. We must learn to discriminate. Surely there is room for responsible foreign policy that falls somewhere between the polarized conception of a Policeman of the World on the one hand, and Fortress America on the other.

Surely it is possible to construct foreign policy that tells us where our national security interests do not lie, as well as where they do.

Dominant as we were after the Second World War, we were not required to draw such distinctions. It seemed then there were no limits to what we could and should do. But now it's time for Americans whose vision of our role in the world was fixed in the 1940's to ask some hard questions. Is there a place on the globe that this Nation should not contest? Are there situations in this world in which the U.S. has minimal or non-security interests?

Surely, thoughtful, responsible "hawks" understand that there are times, places and circumstances in which it would be *against* our security interests to engage militarily. Let them detail such instances. Let them wrestle with the related problem of getting the most from our defense dollar.

And other Americans whose vision of our role in the world has been formed by Vietnam—and who have rightly learned that there are instances in which our interests are not at stake—must now address the question of what our *valid* security interests are in the world. What are the critical locales and circumstances in which American power should properly be exercised.

Thoughtful and responsible "doves" know that no Nation—even ours—can be an island unto itself. They know that there are times, places and circumstances in which it would be *against* our security interest not to exercise power. Let them define what circumstances would justify the commitment of American power and the risking of American lives. Let them wrestle with the related problem of defining what weapon systems, what military technology we must have to protect these security interests.

I am calling for a searching, self-analysis by all Americans of what our post-Vietnam security interests really are. I am asking that each of us shake off conditioned political reflexes, reexamine our premises, and even reverse our habitual domestic political roles.

Out of this process I hope that we can devise, together, and without recrimination about the past, a new consensus of what our foreign policy ought to be.

A central test of this new foreign policy will be whether it will enable us to *discriminate*—to differentiate between our broadly agreed upon security interests and those other temptations which are not in our interest.

While the shape of this new consensus is yet to be defined, let me offer some observations to that end.

I am sure that we are unanimous in our judgment that our supreme security interest is the protection of our own Nation. We also know that this national security must be defined in more than physical, military terms. We know that our economic stability, our sense of rightness, our internal unity and our collective will are as important to our security as troops and arms.

By defining our prime national security interest in this broader, more realistic way, we will be able to distinguish between real threats which we must oppose as a unified nation and instances such as Vietnam where we were drained and divided without being attacked.

I also believe that a new, discriminating foreign policy would realistically revitalize the principles of collective security. There are limits to American power and we need our allies' partnership. We are inter-dependent economically on other nations. Despite our richest power our own national security is, therefore, linked to some other nations' in greater or lesser degree.

But the web of alliances in which we are currently enmeshed is a far cry from the true partnerships we enjoyed in the Second World War. Many of our allies simply do not pull their own weight. Some are unwilling to defend themselves. True collective security must be collective.

Our reappreciation of this axiom will make us more skeptical about helping those nations demonstrably unwilling to help themselves and be a rallying point for aid for real partners.

I also believe that a new foreign policy must address the contradictions between what we have been doing in practice and what we know are our best traditional values. We all know that there have been contradictions between our historic role of defender of liberty and our actual support of governments as authoritarian as those we defend them against. We have used hellish, modern technology, black arts of war which are at odds with our best sense of what is humane. Our classical idea of foreign aggression formed in the 1930's and 40's doesn't square with contemporary realities of civil war and propped-up unpopular governments whose power over their own people is secured by our military aid.

These contradictions pose real dilemmas that will not be easily resolved. Some nations which are no model of American democracy have a strategic importance to the security of our allies that we cannot ignore. If we pressure such nations to democratize their governments they will resent it and we will be intervening in their affairs. And yet our continued military and economic support of such governments already constitutes such intervention. So what is the proper mix of idealism and realism?

These contradictions will not be easily resolved. There are far flung and powerful American and national security bureaucracies that have arisen in the last 25 years that will resist change. The conditioned reflexes and painful memories on both sides of the polarized Vietnam debate will make it difficult for us all to examine these dilemmas afresh.

But unless we can together learn to differentiate in our foreign policy between that which is in our critical interest and that which is not, between acts which square with our best sense of ourselves, and those which do not, I fear the American loss of life, treasure and confidence in ourselves over the last decade might well be in vain.

For years American leaders who defended our role in Vietnam preached the gospel here at home that our withdrawal from that country would threaten our credibility elsewhere in the world. And now from abroad we hear the echoes of our own leaders' pleadings from foreign leaders.

And unless we know as a people when and where the American nation should and should not exercise its power with unity and will, how can our allies know?

Unless we can agree on what our true security interests are how will our adversaries know? They will test and probe and further divide us and we might even lose that which we cannot afford to lose as a result.

But if we agree, on the basis of such a discriminating new policy, that we should withdraw or limit our involvement in cases where American presence would be as invalid, tangential and inconsistent with our real security interest as Vietnam was, then self esteem, our security, and our global statute will be the better for it. And if we agree as a nation to oppose a threat to our real security, we can, without doubt, prevail as we have in the past.

This critical task of devising a new discriminating foreign policy is too domestic for detente, just as some world-wide challenges to our security are too international in scope for detente.

On the other hand, detente has enhanced our national security in another way—a fundamental way—by curbing the strategic arms race.

The complex of agreements that were negotiated at SALT I, and since, make up the most significant achievement of detente. While these treaties are neither perfect nor complete, they are an historic and substantial step towards a durable nuclear peace—the preservation of which is in our supreme national security interest.

These agreements are the products of a continuing process of hard-nosed negotiations. They do not depend on the good faith of the Soviets. We independently monitor and verify Soviet compliance through our remarkable satellite intelligence gathering systems.

The security of these agreements are solidly rooted in mutual self-interest. Both sides have explicitly recognized and have agreed to act upon the overriding reality of our time which is that both nuclear super-powers are inescapably locked into a state of mutual deterrence and common vulnerability. Both sides know that no amount of money, no stroke of technological genius could give either side the capability to destroy the other without in turn being destroyed itself. Through SALT both sides recognize that it is against the national interest of both countries to continue the strategic arms race. Adding further to these devastating arsenals would only endanger the national security of both by adding to the risks of accidental attacks or raising the fears of nuclear first strike or diplomatic blackmail.

Our success in persuading the Soviets to agree to curb the arms race was based on two preconditions of our own making. One was our military strength. But it was military strength of a particular kind. Our strategic arsenal was designed for unquestionable survivability against any Soviet threat. Our extraordinary military R&D programs produced superior technologies which were at the heart of this survivability—our MIRVs; the hardness of our missiles and their silos; the quietness of our submarines; and the penetration of our bombers. These technologies, together with the redundancy of our Triad and the size of each of its component forces, insure, as Secretary Schlesinger has often stated, that the Soviets cannot achieve a preemptive first strike and helped persuade them to accept and act on this hard military reality at SALT.

There was another important precondition for SALT which was less noticed than our military strength. This was a broad consensus that our Nation achieved in the early 70's regarding the shape of our strategic policy and technology. Since the central premise of SALT is mutual deterrence, we first had to agree among ourselves that this Nation's prime strategic goal was to deter nuclear war rather than to prepare for limited nuclear warfighting. And we did agree.

The policy of deterrence means that you should ensure that your strategic force is unquestionably survivable against any attack, but at the same time avoid raising any reasonable fears in the minds of your adversaries about your ability to attack his deterrent.

For example, if you prepare to fight a limited nuclear war by building an ABM protection for your cities instead of depending on your deterrence to stop an adversary from attacking in the first place, you might raise fears that you are trying to deny the deterrent of the other. This was certainly what we feared when the Soviets began to deploy ABM's around Moscow.

In 1970, the Senate Armed Services Committee opposed this so-called "area defense concept." And in 1973, when the Pentagon requested again the authority to develop a light area defense system, the Subcommittee, which I chair on Military Research and Development, successfully led a fight against the opposition of Senator Jackson to deny the request as a matter of national policy. This evidently closed the matter finally since the Pentagon hasn't raised the subject since.

Another way you can prepare to fight a limited nuclear war is by developing a sophisticated offensive technology that would enable you to threaten your adversary's missiles. This so-called counterforce capability to destroy missiles in hardened silos required a combination of the accuracy and yield of your own warheads. The problem, of course, is that if you can threaten your adversary's missiles even if you are only preparing for a limited nuclear war, he may reasonably fear that you are preparing to take his deterrent away with a preemptive first strike. In a period of crisis, this fear is a motive to strike you first. It means your own missiles are more attractive targets, and it consequently puts a hair trigger on nuclear war.

Just as a national consensus developed against the destabilizing area defense concept, we were able to establish even clearer general agreement excluding nuclear warfighting counterforce technologies in 1971–1972. Secretary of Defense Laird stated to Senator Brooke that it was our national policy to avoid such technologies that could be construed as leading towards a first strike against the Soviet deterrent. In 1971, my Subcommttee killed such an Air Force request for missile accuracy and was sustained by the full Armed Services Committee. Later that year on the Floor of the Senate, when Senator Buckley's offered amendments to begin counterforce development, Senator Stennis, the Chairman of the Armed Services Committee with the support of the Department of Defense, led the opposition and Senator Buckley was overwhelming defeated. By 1972, when Congress denied a similar counterforce request there was virtually no vocal opposition.

So we achieved a national consensus that we should concentrate on a deterring war rather than to prepare to fight a limited nuclear war. Since we agreed among ourselves, it was obviously easier to persuade the Soviets to accept this key premise of SALT.

I must sadly report to you today, however, that the American consensus on this key premise to our security through SALT is under severe attack. Secretary of Defense Schlesinger with the support of his principal Congressional ally, Senator Henry Jackson, has initiated nuclear warfighting doctrines and technologies which could lead us to a terrifying new strategic arms race. I fear that the Secretary's new nuclear warfighting policies and his related requests for counterforce technology are a grave threat to gains for our security at SALT and threaten to reverse the discriminating and secure strategic policies which Secretary Laird and the Congress had agreed upon only a few years ago.

Secretary Schlesinger and his Congressional allies would take us much further than imagined before toward exotic new destabilizing technologies. They would not only dramatically increase the accuracy and yield of our current Minuteman missiles, they would have us develop a contraption called the "terminally guided MARV" which would enable our warheads to maneuver their course in flight and achieve virtually perfect accuracy. You have heard of smart bombs; well this would be a smart warhead. Secretary Schlesinger and Senator Jackson would also radically alter the essentially stabilizing character of our sea-based deterrent by giving them counterforce capability. Altogether these proposals represent a radical revision of our strategic policy from one of mutual deterrence to one of nuclear warfighting.

Last year I led an effort in the Senate to raise the alarm about the implications about the danger of these new counterforce technologies and the threat they represented to our security. We were hampered by the distractions of the times which added to the Pentagon's national advantage in selling a new program. We were also faced with natural but superficial reactions to a complex issue. One of my good friends said: "When we go squirrel hunting back home we want to have the most accurate rifle we can get." Of course, the effect of these capabilities would just be the opposite. It would be more like a member of your infantry patrol being so rambunctious that he draws enemy fire and threatens the lives of the entire patrol.

We lost last year by a vote of 49 to 37, but we were able to establish a strong base reaching into the center of the Senate.

This year we have had extensive hearings before my Subcommittee on Military Research and Development and we have prepared a case which we will argue within the next month or so and which I hope will prevail. I won't detail my arguments today but the basic themes are clear.

In sum: Dr. Schlesinger's and Senator Jackson's shift to nuclear warfighting doctrines and technologies actually diminish our national security by putting a hair trigger on nuclear war, by drawing fire in a period of crisis, by distracting us from our critical strategic task which is to insure the survivability of our deterrent, and by throwing doubt on the central premise of SALT which is the principle of mutual vulnerability.

My Subcommittee examined especially carefully whether there was any military need for these programs. We found that when the dialogue is pursued to its final conclusion, the real Pentagon justification for counterforce is, in fact, not military, but political or diplomatic. They primarily justified these programs on the basis of what they call "political perception." In other words, they are concerned that unless we have this capability it might adversely affect the political position of the U.S. in the world. My Subcommittee cross-examined the Pentagon witnesses in great detail trying to get them to define what Nation would act differently in what specific kinds of cases against the security of this country. We still haven't been given an adequate answer. I am sure that the American people would not accept a policy with such dangerous implications for nuclear peace if it knew that its ultimate purpose was designed not to perform a military function in the classic sense but to be used as a diplomatic devise or tool in world politics.

The Secretary's warfighting doctrines have also jeopardized public understanding and support for strategic systems. Our strategic fleet has always enjoyed a broad political base as the perfect deterrent weapon. It was virtually invulnerable, capable enough to deliver a variety of retaliatory responses, but inherently accurate enough to quiet any Soviet fears that we were threatening their missile fields. If Dr. Schlesinger suceeds in beginning to develop a sea-based counterforce capability, Navy will be faced with controversy instead of consensus about our strategic fleet.

Similarly the Air Force, which has enough problems justifying the B–1 bomber because of its extraordinary projected cost, now has to reconcile this weapon, which is best suited for the policy of deterrence rather than warfighting with Dr. Schlesinger's new policies.

And Air Force finds itself in a tightening dilemma each year in justifying further improvement of our Minuteman missiles. Dr. Schlesinger's counterforce proposals emphasized the Soviet threat to our missile fields,

but a missile's vulnerability is in no way changed by making it more accurate or giving it more yield. So the more Air Force emphasizes missile vulnerability, the less credible is their argument for continuing to improve them.

The logic and technology of the Secretary's proposals, like himself, are creatures of a small community of theorists and scientists that have arisen as a behind-the-scenes force in public policy in the nuclear age. This talent is one of our national assets, but it must not be deferred to automatically. Its judgments, like all others, must be tested in the open forums of our Republic.

President Eisenhower warned us in his famous farewell address not only of the "military industrial complex" but also of the "dangers that public policy could become the captive of the scientific-technological elite."

This is why there must be a full public debate on these most basic questions of strategic policy and national security.

This will not be a partisan debate. Members of both parties are on both sides. But it is ironic that the most conspicuous Congressional spokesman of Dr. Schlesinger, a member of my party, is voicing a position substantial to the right of the Nixon-Laird Congressional consensus of the early 70's. There is no question in my mind that the Nixon Administration's greatest achievement and deepest taproot of public support was derived from having recognized that this Nation wants a secure end to the arms race. I believe that there is neither valid policy ground nor a national constituency substantially to the right, or for that matter, to the left, of the broad center on strategic arms symbolized by SALT. Certainly, there are no policy grounds or national constituency in my party or my country for a return to the cold war or a new technological arms race.

Let me sum up. Detente is not a very useful tool in dealing with real threats to our security which are larger than U.S.-Soviet relations. Moreover, the key to our continuing problems abroad will lie primarily within ourselves, not in detente, because we need a discriminating unifying new foreign policy.

But detente has been a substantial help in stabilizing nuclear peace and this is an overriding precondition of our security.

President Eisenhower, who had personally "witnessed the horror and lingering sadness of war," knew that "another war could utterly destroy this civilization which has been so slowly and painfully built over thousands of years."

This is why he reminded us that "the conference table though scarred by many past frustrations cannot be abandoned for the certain agony of the battlefield."

LAOS: A DOMINO FALLS

Mr. FANNIN. Mr. President, since the political complexion of Indochina has changed so dramatically with the fall of the legitimate governments in South Vietnam and Cambodia, the established international relationships of the governments of both Laos and Thailand are being questioned seriously. Laos and Thailand are reassessing their relationships with the new power centers in Southeast Asia—North Vietnam, China, and Russia. It is apparent that a power vacuum presently exists in Indochina. The absence of the United States has opened up this chasm and it will be filled. The question is—by whom?

There was a great deal of debate in the Congress and the press and the academic community during the past 20 years about the domino theory of Southeast Asian nations falling one by one to Communist control should the American presence disappear substantially from Indochina. The domino theory was prophetic, realistic, and accurate.

Mr. President, two articles were published in the May 15, 1975, Washington Post which relate to the domino theory and the uncertain situation in Southeast Asia. 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:

LAOS: A DOMINO FALLS

(By Rowland Evans and Robert Novak)

Laos became the first post-Vietnam domino to fall, some three months earlier than even pessimists in the U.S. government thought possible, with a shove from the now imperial North Vietnamese politburo in Hanoi.

This points to wishful thinking, presently being modified, in high-level Washington. The hope that Laos might drift on in a neutralist never-never land while Communists tightened their hold on the rest of Indochina reflected an underestimation of how deeply the U.S. humiliation has affected Asian governments (and buttressed popular anti-Western jingoism). This misjudgment was compounded by another: A belief Hanoi would pause to digest South Vietnam before consolidating its hegemony over Indochina.

Thus, the widely derided domino theory is fully revived thanks both to the shock effect of the Vietnam debacle and the militancy of Asian Communists. The lightning collapse of Laos speeds and heightens the danger for Thailand. Future dominoes may be Malaysia and Singapore, with the Philippines and Indonesia menaced in the future.

Laos was the inevitable domino, its fate always determined by events elsewhere. Militant revolutionary communism was exported to dreamy, superstitious Laos by the armies of North Vietnam. All that prevented their quick triumph was intervention by Washington in the form of CIA military advisers, military aid and air support.

No Laotian better understood his country's future dependence on external events than its philosophic prime minister, Prince Souvanna Phouma. Recognizing that Hanoi sought the old French imperial role of ruling all Indochina, Souvanna believed that only "the great powers"—that is, the United States—could prevent it by guaranteeing Laotian independence. Thus, in the late 1960's he changed from neutralist to staunch anti-Communist, defending U.S. bombing of the Ho Chi Minh Trail in the panhandle of Laos. As recently as April 1973, when we last interviewed the Prince, he stoutly opposed unilateral withdrawal of CIA advisers and royal Thai army units.

What returned Souvanna to neutralism was the U.S. congressional surge for disengagement from Indochina. If the Americans were going to abandon South Vietnam and Cambodia, he knew Laos was doomed to conquest unless it accommodated to the Communists. The result was the one-sided 1973 peace treaty establishing a coalition government.

There was strong feeling in the State Department and U.S. embassy in Vientiane that the Lao coalition would muddle along indefinitely even after the Communist conquest of Cambodia and South Vietnam. If the nonviolent Laotians had been left to their own devices, perhaps it would have.

Saigon had not even fallen when, according to well-informed specialists here, the North Vietnamese politburo ordered an offensive. Communist Pathet Lao troops attacked Maj. Gen. Vang Pao's royal Lao army units at the crossroads town of Sala Phou Khoun between Vientiane and the royal capital of Luang Prabang.

If the Pathet Lao had run into trouble, there was help in reserve from 30,000 North Vietnamese regulars, supplied with Soviet tanks and heavy artillery, stationed in Laos. These crack troops no longer could be neutralized by U.S. B52 bombing strikes. Nor did Vang Pao's troops any longer benefit from CIA guidance or Thai artillery support. Demoralized, the royal Lao troops retreated.

Vang Pao called on air support from obsolete T28 propeller-driven fighter-bombers piloted by plucky Meo tribesmen, but that only fit into Hanoi's scenario. The Communists listed this as one of many provocations by royal Lao armed forces and demanded the resignation of right-wing ministers and generals.

Old (73), sick and terribly tired, Prince Souvanna Phouma backed this virtual coup to prevent bloodshed. With no possibility of outside help, the domino fell. Rightist cabinet ministers decamped to Thailand along with top officers in Vang Pao's command. Vang Pao himself, leader of the Meo people as well as a royal Lao army general, surrendered his command but stayed with the Meos in their once doughty fortress of Long Tieng to await the grim future. Souvanna and King Savang Vatthana may remain as figureheads, but will be followed by the People's Republic of Laos.

The case of Laos as a domino is unique in inevitability and speed but not in kind The same conditions prevail in Thailand. While Bangkok frenetically seeks to cut ties with Washington and accommodate to its Communist neighbors, three separate insurgencies intensify, with help from Peking and Hanoi. The northeast Thai insurgents, with a remarkable record for cutting up government troops, are guided by the Chinese and supplied by the North Vietnamese. The long-range prognosis for preserving Thailand from Communist control: mediocre.

How quickly other dominoes fall cannot be forecast. But Asia today faces confident revolutionary communism with Hanoi, far from immersed in postwar reconstruction, encouraging it everywhere. If that pattern holds, the Laos domino is only the first. Others will fall, more slowly, but with stakes incomparably higher.

HANOI'S PAEANS OF VICTORY

(By Victor Zorza)

Hanoi has summed up its victory in these words: "The Vietnamese people's strength has crushed the aggressive force of U.S. imperialism, the most powerful imperialist chieftain and the most vicious enemy of mankind, and has upset its counter-revolutionary global strategy, thus making an important contribution to the offensive posture of the (world) revolution."

These words, from the army paper Quan Doi Nhan Dan, are being repeated in dozens of different ways in newspaper articles and radio broadcasts which stress the historic nature of the defeat inflicted on "four successive U.S. presidents." The United States came to believe that material power allowed it "to become an *international* gendarme," to rally the forces of "international capitalism," and to stop the forces of socialism.

It therefore sought to build in Vietnam a "dike to hold back the red wave that was flooding South East Asia." Thus did Vietnam become the testing ground of U.S. power and prestige. But what the test proved was that U.S. power was "limited," and that its limits had "reached breaking point." Its defeat showed that America would never again be able to act as an international—"or even regional"—gendarme.

Never before had the world situation been "as good as it is today," never had imperialism experienced "such fierce crisis and contradictions." The world revolutionary forces

"are, clearly, in the strongest offensive position," while the imperialists' capability to wage war is "increasingly" limited. "Thus, the world revolution now has better conditions under which to develop."

But what will Hanoi do with its victory, now that it has got it? At the end of last year, the Hanoi dailies carried a series of articles by General Nguyen Vo Giap, the defense minister. He insisted on the importance of Marxist-Leninist precepts, but he presented them in a nationalist Vietnamese sauce which neither Moscow nor Peking would find to its taste. In a similar series of articles which he wrote more than 15 years ago to celebrate the victory of Dien Bien Phu, Giap explained why the Vietnamese revolution differed from both Russia's and China's, and had to follow its own path.

Ever since then Hanoi has sought to present its own revolutionary model as more relevant to the needs of the many nations suffering under the "neo-colonial" yoke. This Marxist-nationalist mixture was usually presented discreetly, so long as Hanoi was dependent on Soviet and Chinese arms aid, but the triumphal ending of the war may remove some of the earlier inhibitions.

There is less insistence now on Hanoi's role as the focus of a world revolution that has been betrayed by both Russia and China. But this theme, which once underlay Hanoi's comments on the willingness of Moscow and Peking to open their doors for Nixon's summit visits, revealed an intense distrust of its allies. Hanoi accused the big powers of pursuing their own interests to the detriment of the smaller nations. Whatever gratitude Hanoi may now feel for Soviet and Chinese arms supplies will be tempered by its fear of the new competition between Moscow and Peking for influence in Indochina.

Both Moscow and Peking see Indochina as the route to influence in large areas of Asia. They may be as wrong as Washington was, but the great powers do not learn from each other's mistakes. In competing for influence in Hanoi, they may—as great powers often do—seek a degree of control which the Vietnamese would see as infringing their own independence, as has happened on earlier occasions when Sino Soviet rivalry was focused on Hanoi.

When General Giap wrote of thousands of years of Vietnamese history during which the nation resisted the invasions of Chinese "feudalists," he was revealing something of Hanoi's fears of China's future intentions. The greater distance once made Russia the less dangerous ally, but a demand by Moscow for a naval base at Camranh Bay would bring Soviet power not only to the center of Asia, but also to the strategic tip of Vietnam.

Both the Kremlin and Peking may feel entitled to some reward for their arms aid, but Hanoi may prefer to pay in agricultural produce rather than in strategic facilities and in political influence. To protect itself against too tight an embrace by its Big Brothers, while extracting continued economic aid from them, Hanoi will need allies in the world Communist movement and in the "national liberation movement," where Moscow and Peking are competing for influence. One way to gain such allies is to obtain recognition of Hanoi's own "revolutionary model," and to inspire its emulation if possible.

This is where the intense nationalism of the Vietnamese Communists, which leads them to claim a unique role in developing a model suitable for other nations, could cause them to become a challenge to both Moscow and Peking. In the paeans of victory this theme is muted, while the United States is execrated. But the United States is withdrawing from the area. In the long run Russia and China could present a greater threat to Vietnam, precisely because all three are Communist, and because the two biggest powers have imperial ambitions in the area.

It may seem unthinkable now that Hanoi might welcome the retention of an important U.S. role in South East Asia, and in Asia generally. Yet this is how Peking feels today, although only a few years ago that too would have been unthinkable.

HUMAN RIGHTS CONCERN BASIS OF GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, there is a natural and obvious connection between maintaining world peace and observing human rights. This tenet has been incorporated domestically in our Bill of Rights and internationally in the Charter of the United Nations. When the charter was drafted in 1945, and as ratified by our country, its references to the recognition of human rights were so clear as to leave no doubt that human rights were within the province of the United Nations.

The purpose clause (ch. I, art. I) asserts that:

> The United Nations is created to promote respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.

Various other aspects of the charter reaffirm the intent of the purpose clause, and provide measures for its implementation.

Despite the existence of the United Nations charter, many members of the United Nations have expressed the necessity of underscoring their position on aspects of human rights. They have done so by ratifying the Genocide Convention. None of the specious arguments raised in opposition to the convention by this body should prevent our ratification of the document.

Mr. President, the Government of the United States must recognize its responsibilities to its citizens to respect the rights of our own people and as a formidable international power must do everything we can to see that the rights of all people are respected. The next step is to ratify the Genocide Convention.

NATIONAL CAR CARE MONTH

Mr. CURTIS. Mr. President, on March 20, the Senate passed without dissent a resolution which I, with Senators McCLURE, McGEE, and HUMPHREY, introduced to designate the month of May of this year as "National Car Care Month."

The purpose of the resolution is to make every motorist conscious of the things he or she can do to be sure his or her car is safe and efficient.

Nebraska Congressman JOHN Y. McCOLLISTER introduced the resolution in the House. While awaiting action there, Congressman McCOLLISTER and I wrote to the Governors of the 50 States urging them to issue proclamations in their individual States to insure that motorists across the Nation may have increased awareness of the value of regular auto maintenance in saving lives, money, and energy.

We believe it is important to focus on this effort just prior to the start of the summer tourist season in a year when unusually large numbers of older cars are traveling the streets and highways due to the economic slump and accompanying decline in new car sales.

Mr. President, I am delighted with the response from our Nation's Governors. Sixteen of our States, nearly one-third of our Nation, are officially observing this month as Car Care Month. They are Alaska, Florida, Georgia, Hawaii, Indiana, Kansas, Massachusetts, Missouri, Montana, Nebraska, New Hampshire, Oklahoma, Rhode Island, South Carolina, South Dakota, and Vermont.

I am especially delighted that my State of Nebraska was first in line, along with Alaska, to join the car care program on a State level. Nebraska has one of the best traffic safety records in the Nation.

Many Governors share the concerns I expressed when I introduced the resolution.

Rhode Island Gov. Philip W. Noel writes to me:

> We are happy to support a resolution aimed at making citizens more aware of the impact effective car care can have on highway safety and conservation of energy.

Gov. Richard Kneip of South Dakota calls the program a "most commendable effort to make motorists more conscious of the things they can do to make sure their cars operate more efficiently and thereby increase safety on the highways."

And Veda Paoletta, in the press office of Massachusetts Gov. Michael S. Dukakis, makes it clear why the resolution is so important at this time. Writes Ms. Paoletta:

> . . . Massachusetts will commence its Bicentennial celebration in just a few short weeks. During the course of this celebration we expect an influx of automobiles, and unfortunately, many traffic jams caused by poorly maintained automobiles.
>
> At the same time, this administration looks forward to the day when our Nation has a first-rate, high-speed intercity rail network that will reduce our reliance on the automobile, thereby cutting down on air pollution, fuel consumption and the need for even more highways.

Ms. Paoletta indicates that Governor Dukakis will sign a car-care proclamation "in the hope that the many tourists who bring cars to Massachusetts will take the time to insure their cars are safe and in good working order."

Mr. President, I thank these Governors for their cooperation and urge all Governors to make special efforts to insure a safe Bicentennial on our Nation's highways.

THE SOLVENCY OF SOCIAL SECURITY

Mr. STEVENSON. Mr. President, the social security program has been the subject of numerous critical newspaper and magazine articles. All too often these criticisms ignore the fact that social security is working well and currently provides benefits to more than 30 million people. Social security has not missed a payment in over 34 years, and will not in the future.

Some articles have charged that the social security program is on the verge of insolvency. It is not. Social security is fundamentally different from private insurance programs and retirement plans. This social insurance program can, and

does, operate on a pay-as-you-go basis. It is protected against emergencies by a contingency reserve which currently stands at $45 billion. Because social security is backed by the U.S. Government, there is no danger whatever of future retirement benefits being jeopardized.

However, we must not ignore the social security system's very real problems. Inflation is particularly burdensome to retirees living on fixed incomes. Food prices and the costs of energy continue to rise; rents and medical expenses have also risen sharply. Food, shelter, and medicine are necessities, not luxuries. As the principal financial bulwark of the elderly, the social security system must protect older citizens' purchasing power against inflation.

Retirement benefit increases are now tied to increases in the cost of living, so inflation has increased expenditures for social security. High unemployment has reduced social security's revenues to levels below expectations. Decreased revenues and increased spending have produced the likelihood of a $3 billion deficit for the social security program for the coming year.

Significant demographic changes, particularly the increased proportion of the American population which is 65 or older, also represent a serious problem for the social security system. As the birth rate decreases and as zero population growth becomes a reality, a smaller percentage of the population makes contributions to a retirement system which supports an increased number of beneficiaries. Increased social security taxes, decreased levels of benefits, general revenue financing of social security benefits, or some combination of these possibilities appear to be the only alternatives.

I have reservations about increasing the payroll tax. This tax is already too high, and is regressive. A married man with two children, earning $7,000 annually, would pay approximately $406 in Federal income taxes, but would pay about $410 in social security taxes per year. The executive earning $200,000 per year pays the same social security taxes that an individual earning $14,500 per year pays. The average wage earner simply cannot tolerate further increases in the payroll tax; indeed, it seems to me that, in the near future, he must be given some relief from this regressive tax.

Decreases in social security benefits are equally unsatisfactory. They would be unfair to those citizens who have premised their retirement plans on their expectations about social security benefits. I believe that Congress has a responsibility to make retirees' incomes as inflation-proof as possible. For this reason, I support the 9 percent increase in social security benefits which the elderly are scheduled to receive next month.

In order for us to meet obligations to social security beneficiaries without increasing the payroll tax rate or decreasing benefits, I believe that it will be necessary to finance a portion of social security benefits out of general revenues. This seems to me to be the best approach open to us. I hope that the Congress will begin the consideration of general revenue financing of some social security benefits in the near future.

Mr. President, I ask unanimous consent that an article on social security benefits from the May 12 issue of the Washington Post be printed in the RECORD.

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

SOCIAL SECURITY BENEFITS NOT IN DANGER

(By Peter Milius)

The Social Security system is not about to go broke. Congress will not let it.

Your elderly relatives are not going to lose their benefits.

You are not going to lose yours, either; when you retire, they will be there waiting for you.

For more than a year now, from both in and out of government, there has come a succession of increasingly bleak reports as to Social Security's future financial soundness. The bleakest report yet on the giant social insurance system came last week.

The Social Security trustees—the secretaries of the Treasury, Labor and Health, Education and Welfare—told Congress that total benefit payments are now expected to start outrunning total tax collections this year, rather than some year in the far-off future, as they had earlier reported.

If nothing is done in the interim, the trustees said, the vast Social Security trust funds—$46 billion at the start of this year—will be steadily drawn down, and by the early 1980s be exhausted.

The trustees' report was not good news, but neither was it the cataclysmic news it may have seemed. The system is not going to run out of money.

The way the law is written, Social Security benefits and taxes both now go up automatically each year, to keep up with inflation.

The trustees' report means that taxes will now have to go up faster than had been thought before and benefits somewhat slower. But benefits will still go up, and will still be paid.

The mistake many people make about Social Security is in thinking of it in the same way as a private pension plan, or even an individual savings account: you pay in your money (and your employer also pays in, in your name), the government holds and invests it for you, then pays it back to you and your surviving dependents at your retirement or death, or if you become disabled.

If that were how it worked, each individual's money would simply be waiting in the trust funds for him or her to claim it; it would be frightening news to learn that the money was somehow disappearing, and the trust funds running dry.

In fact, however, the government has never wanted nor dared to take that much money out of the spending stream each year and squirrel it away. Rather than a pension plan or savings bank, the Social Security system has always been run much more like a kind of clearinghouse.

Economists call it a transfer system, a system under which the government simply transfers a certain amount of income each year from one part of the population to another. The money comes in from current workers and their employers, promptly goes back out again to retired and disabled workers, or survivors of workers who died before retirement.

You pay now to support your parents; your children will pay later to support you. The trust funds are almost incidental.

The system is formally known as old-age, survivors and disability insurance. It was set up in the Depression, at the same time and in the same spirit as federal unemployment insurance: to replace part of the income lost when through no fault of your own, a family breadwinner lost or was somehow forced to give up his job.

In the 40 years since, the Social Security system has become one of the dominant institutions in the U.S. economy.

One dollar out of every 20 that the American people now receive in income comes to them through Social Security.

More than 30 million persons are now drawing benefits each month—one seventh of the population.

Total benefit payments next fiscal year are estimated at more than $70 billion—almost a fifth of the federal budget.

Two basic problems are facing this system now, one of them long-range, the other short.

The long-range problem has to do with the baby boom that occurred in the years just after World War II, and that was followed by the present decline in the birth rate; the so-called birth dearth.

The baby-boom generation was big; the present generation is small. The baby-boom generation will start to retire about the time the present generation starts to work. In relative terms, there will be fewer active workers supporting more retired ones. There are now about three people working and paying Social Security taxes for every one collecting benefits. By the year 2010 or shortly thereafter, that ratio will be 2 to 1.

The shorter-range problem revolves around the law that Congress passed in 1972 to increase future benefits by the same per cent future prices rise.

Congress was actually restraining itself when it passed the law. When it had raised benefits before, it had always raised them more than prices (though not without reason; in 1959 benefits were so low that a third of the elderly people in the country were living in what the government officially defined as poverty. By 1973, that fraction had been reduced to one-sixth.

The problem in 1972 was simply that Congress, when it passed the law, underestimated the likely future inflation rate and thus the likely future benefit costs.

In addition, Congress miswrote the law in such a way as to increase the likely basic benefits of workers who will retire in the future much more than it had intended.

The law, besides simply raising the benefits of people once they are on the rolls, would also eventually raise what are known as replacement ratios, which Congress never meant to do.

Social Security benefits only replace a part of a worker's wages when he retires; the ratios tell you how large a part. Raising the ratios even a little raises the system's costs a lot.

With a few unimportant exceptions, the law now provides that only Social Security taxes may be used to pay Social Security costs.

The Social Security tax is now 9.9 per cent of taxable wages, 4.95 per cent on both employer and employee. (The total amount you and your employer both pay each week is 5.85 per cent, but part of that is for Medicare for the elderly, not Social Security.

This tax rate has gone up rapidly in recent years. So has the tax base, the part of an individual's earnings to which the tax is applied each year. That tax base is $14,100 this year. Under the 1972 law, it will rise automatically each future year by the same per cent as average wages in the economy. It will be $15,300 next year, more thereafter.

This increase each year in the tax base, however, will not be enough to meet all the system's coming costs.

Unless Congress takes some other action, the trustees thus said last week that the tax rate will have to rise to 10.95 per cent for employer and employee combined by 1985, 12 per cent by the year 2000 and 22.44 per cent by 2050.

A 22.44 per cent tax rate is plainly insupportable. The Social Security tax is already under attack as too high, as well as for being regressive, in that it takes a far higher percentage of a poor worker's total income than it does of one who is highly paid.

The trustees proposed, as a first step, that Congress rewrite the law it passed in 1972 so that, instead of rising, the system's replacement ratios will stay where they are.

The ratios now are about 60 per cent for a low-paid worker—the benefits he first gets when he retires are about 60 per cent of the wages he last got when he was working—40 per cent for people making about the median wage, and 30 per cent or below for the higher-paid. The benefit structure is progressive, which to some extent offsets the regressiveness of the tax.

If Congress does rewrite the law this way, as it probably will, the system's long-range costs will be much lower than now projected. Instead of a hypothetical tax rate of 22.44 per cent by the year 2050, it would need 16.32 per cent.

That still means, however, that somewhere in the future either taxes will have to be speeded up or benefits slowed down.

It also leaves unresolved the system's more immediate problem, the fact that inflation is higher than anyone thought it would be in 1972, that benefits and costs are thus rising faster than was then foreseen, and that the system will start eating into its trust funds this year.

To deal with this, the trustees, speaking for the administration proposed that the Social Security tax on employers and employees combined be increased the equivalent of 1.2 or 1.3 percentage points sometime in the next few years. (No one wants to raise the tax until the recession is over.)

They left for later the next question, which is whether to achieve the increase by raising the tax rate or the tax base.

Such groups as organized labor would rather raise the base; doing that makes the tax less regressive.

What labor would really like to do, however, is stop financing the Social Security system solely out of the Social Security tax, and start shoring up the system instead with general revenues.

Opponents say such a step would destroy the system, in that there would no longer be a fixed relationship between what a person puts in and what he or she eventually gets out. That is also the view of the administration.

In various indirect ways, however, Congress already has begun moving toward the use of general revenues to supplement Social Security.

One such indirect step was taken in 1972, when Congress federalized and began to beef up the nation's so-called adult welfare programs—old age assistance and aid to the blind and disabled.

These welfare programs are paid for out of general funds. If a worker retires or becomes disabled and his or her Social Security benefits are below the welfare level, these welfare programs will make up the difference.

The Social Security system thus no longer has to worry so much about those receiving minimal benefits; the welfare programs take some pressure off.

Congress also took some pressure off, indirectly, when it passed this year's tax cut to low-paid wage-earners with children. Though no one said so, it was understood that the cut in income taxes was intended to offset the Social Security taxes such people pay.

Instead of putting income tax money directly into Social Security and cutting Social Security taxes, Congress did it the other way around.

General revenues are one possible solution to Social Security's problems. And if not that, Congress will find another. Those 30 million people receiving benefits—a lot of them vote.

LONG FAVORS RAISING SOCIAL SECURITY TAX

HOT SPRINGS, Va., May 11—Sen. Russell B. Long (D-La.), said Saturday he favors increasing the Social Security tax on workers and employers and limiting benefits for new retirees in order to restore a measure of financial health to the system.

Long, who is chairman of the Senate Finance Committee, proposed raising the Social Security tax by one-half of 1 per cent. That would mean workers would pay tax of 25 cents out of every $100 earned.

THE JOJOBA PLANT

Mr. FANNIN. Mr. President, for a number of years I have worked with Indian tribes who have been trying to develop commerical uses for the jojoba plant which is common in southern Arizona.

Last week the Washington Post published a brief Associated Press story regarding the jojoba plant and the possibility the seeds could be used to produce oil very similar to sperm whale oil.

The development of a market for this oil would be a boon to the Papago Indian Reservation and the southern portion of Arizona.

Mr. President, I ask unanimous consent that the article to which I have referred be printed in the RECORD.

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

DESERT PLANT OIL LAUNCHED BY SCIENTISTS

(By John Stowell)

Seed oil from a wild desert bush holds the promise of protecting sperm whales from extinction and giving an economic shot in the arm to 26 impoverished Indian reservations in Arizona and California, a National Academy of Sciences panel reported yesterday.

If the jojoba plant is grown in large quantities on plantations in the Southwest, the report said, its oil may someday be used in automobile transmissions, carbon paper, drugs, polishes, paper coatings, textiles and electrical insulation.

The scientists admitted, however, that they can't distinguish now between the female plant, which bears the valuable seeds, and the male plant, which produces only pollen.

The jojoba plant grows wild over an extensive arid area of the Sonoran Desert in Arizona, California and Mexico, where temperatures may hit 115 degrees in the shade. It produces an estimated 100 million pounds of peanut-sized seeds annually.

The plant is believed to have a life span of more than 200 years, can survive in climates with no more than eight inches of rainfall annually and is resistant to insects and diseases.

Jojoba oil extracted from the seeds is colorless and odorless. The panel report said it is superior in many ways to sperm whale oil, which the United States has refused to import since 1970, when sperm whales were put on the endangered species list. In hydrogenated form, jojoba oil is equivalent to carnauba wax, which is laboriously scraped from the fronds of palm trees and imported from Brazil.

The report recommended that the 17 reservations in California and nine in Arizona immediately begin developing plans to plant 2,000 acres of jojoba plantations over the next five years.

THE VIETNAM WAR IS OVER: WHAT WAS IT ALL ABOUT?

Mr. MONDALE. Mr. President, last Sunday an unusual and highly perceptive article appeared in the Minneapolis Tribune. Written by Ronald Ross, it provides the personal reflections of one observer who spent 5 years as the Tribune's correspondent in Vietnam.

Now that the war is finally over, there is a temptation to hide from the unpleasantness of questioning the meaning of our experience in Indochina. Ross rightly rejects the arguments of those who would like to sweep the entire tragic episode under the rug. In his own words:

Insist that you see what's under that rug, and when you have, hang it up in the fresh air and give it a good beating.

The article, while disturbing in much of what it reveals about the mistaken attitudes and actions that led us deeper into the quagmire, is profoundly refreshing for its honesty and basic optimism about America.

Mr. President, that my colleagues might share the value of Mr. Ross' observations in this article, I ask unanimous consent that it be printed in the RECORD.

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

[From the Minneapolis Tribune, May 11, 1975]

THE VIETNAM WAR IS OVER: WHAT WAS IT ALL ABOUT?

NOTE.—Ronald Ross served as the Minneapolis Tribune's correspondent in Vietnam from 1965 to 1970, and has followed developments there since then in his role as a Tribune editorial writer. When Saigon fell 10 days ago, his editors asked him to set down his personal reflections on the conflict. This article is the result.

(By Ronald Ross)

A letter to my daughter:

You often asked me, when you were a little girl living in Hong Kong, what the Vietnam War was all about. Now that it has ended I will try to explain.

A lot of it has to do with American fears of the spread of communism after the second World War. To some extent those fears were justified. By 1950 Americans could see that Communists ruled in Russia, Eastern Europe, China and North Korea, and appeared to be threatening in other parts of the world, including Vietnam and the rest of Southeast Asia. Many Americans thought then that hordes of Communists, led by Russian and Chinese spies and soldiers—all lumped together in a huge global conspiracy—were about to take over everywhere.

Today, of course, we know that Russia and China have little in common—even their communism is different—that "global communism" is a myth. But it is a myth that many Americans—some of them in very important positions—believed in. And they believed that it had to be fought wherever it threatened.

Lyndon Johnson, who might have been a great president if it hadn't been for his obsession with Vietnam, was quite capable of telling people in the 1960's, for example, that if we didn't stop the Reds in South Vietnam, tomorrow they would be in Hawaii,

and next week they would be in San Francisco.

The United States got really involved in Vietnam for the first time when it supported France's return to its Indochina colonies after the defeat of Japan in 1945. That support soon was translated into massive amounts of military aid with the surfacing of Ho Chi Minh's Vietnamese independence movement, which the French tried in vain to crush. When the French were defeated in 1954 by the Communist-led revolutionaries, the United States stepped into the breach, or quagmire, as some have called Vietnam for the Americans.

An anti-Communist president, Ngo Dinh Diem, was installed in Saigon—the capital of the southern half of Vietnam—and the first American advisers were sent out to help him. That was in President Eisenhower's days. From that small beginning, the American presence grew until there were 550,000 troops in South Vietnam in 1970, when President Nixon was in the White House. Getting involved in Vietnam we know now was a mistake, but once America's leaders got locked into it, they found it hard to get out. And in the 1950s and 1960s the leaders were backed by a majority of the American people.

If you have ever seen films of Sen. Joe McCarthy in action you will understand something about the mood of America in the 1950s. McCarthy finally was broken, but his malevolent anti-Communist crusade left many deep scars on American society and drove out of office many fine diplomats and scholars who could have helped policymakers in the decisions they were making about Vietnam.

Those were times when you would have thought that many Americans had lost their senses. In a way, they had. They had certainly lost their sense of perspective. Many of them were not to regain it until much, much later. And there are some who still haven't. Those also were the days of Secretary of State John Foster Dulles and his messianic, muscle-flexing diplomacy. Dulles even wanted to drop an atomic bomb on Indochina at one time, but, mercifully, wiser heads prevailed.

John Kennedy inherited much of Dulles's vision of America's role in the world. When that was put together with Kennedy's illusions about counter-insurgency and the new weapons that were being developed for the U.S. military, it seems now that a "Vietnam" somewhere in the world was probably inevitable.

There also was an underlying streak of racism in the attitude of many Americans, and that led some of their leaders, including presidents and secretaries of state, to make the big error of underestimating the Vietnamese: "Charlie Cong" to some generals, and "gooks" to a lot of GIs.

It was an error that was to cost the lives of more than one and a half million soldiers (only 56,000 of them American) and the lives of hundreds of thousands of civilians (all but a handful of them Asian).

Vietnam was not America's finest hour abroad. Nor was it America's finest hour at home, where the better things about JFK's New Frontier and LBJ's dreams for his Great Society crumbled under mounting inflation and political and social dissent.

There was little to be seen of America's generosity or intellectual ferment, but plenty of its arrogance, its violence, its passion for manipulation. America was to look even worse under Richard Nixon and Henry Kissinger, the co-authors of the last chapter of America's tragic Vietnam story.

Nixon was ideally suited by temperament to succeed to "Lyndon's war"—manipulating men and machines to prove that America was not a "pitiful, helpless giant" and wrapping his actions in a cloak of secrecy and mistrust. If he had stayed within the limits Johnson had set (at least publicly), Nixon might have survived, but he chose instead to send the U.S. calvary after more Reds in Cambodia—launching death and destruction on that little country in the name of saving American lives. (There really was a cavalry unit out there. It went to war in helicopters. Now it's back in tanks.)

The campuses exploded, but Nixon might have survived even that had it not been for his paranoia about secrecy. It was his and Kissinger's vain efforts to hide massive, pre-invasion bombing in Cambodia that led to White House orders to wiretap U.S. officials and reporters suspected of leaking the story. That was the first link in the miserable chain of clandestine operations that produced the White House "plumbers" and, eventually, the Watergate scandals. With those, Nixon was out.

For six years, Nixon and Kissinger, and then Gerald Ford and Kissinger, strung out the last chapter—from 1969, when a settlement could have been reached, through the Christmas 1972 bombing of Hanoi, the 1973 signing of the Paris agreements and the return of the American POWs, to the resignation of President Thieu on April 21 of this year and his flight to Taiwan on April 26 and the surrender of Saigon to the People's Army of the north and the Revolutionary Government of the south on April 30.

It might have gone on longer. Even until the last weeks, there still were hundreds of American military advisers in South Vietnam and billions of dollars' worth of American guns, planes, bombs, helicopters and tanks. In Washington, President Ford and Kissinger still were pushing Congress hard to give Thieu even more. But Congress balked, finally responding to the feelings of millions of Americans that enough was enough. As the book closed on the White House, it opened on Saigon, renamed Ho Chi Minh City. Vietnam at last was for the Vietnamese.

Kissinger lingers on, continuing to treat domestic politics and the country's public opinion as something to be manipulated so that he can be free for dealings with other nations, preferably America's "adversaries" who, he once said, gave him less trouble than America's friends.

Some years ago, in a rare unguarded moment, Kissinger explained his own vision of himself to the Italian woman journalist, Oriana Fallaci: "The main point stems from the fact that I've always acted alone. Americans admire that enormously. Americans admire the cowboy leading the caravan alone astride his horse, the cowboy entering a village or city alone on his horse . . . a wild West tale, if you like."

"When people really digest what has happened, then they will begin to see that the Kissinger style of diplomacy is incompatible with our ideals as people."

Those were the words of a wise man spoken last week here in Minneapolis. He is Maurice Visscher, regents professor emeritus at the University of Minnesota. In 1966, be helped form Minnesotans Against the War. That was a time when many prominent people in Minnesota, including Sens. Humphrey and Mondale and some of the senior executives and editors of this newspaper, thought that what America was doing in Vietnam was right.

Do you remember the Beatles' song: "I read the news today oh boy . . ."? Well, there always was news about Vietnam in the newspapers and on radio and television, as far back as the 1960s, when Kennedy was in the White House, and even further back when the French were in Vietnam.

There was plenty of deception by government officials, but information always was available, at least to those who cared to take an interest. If there was any sense in which it could be said that Americans were not well-informed, it was not that they lacked facts. Rather, it was that the press in those early days did not try hard enough, or was not bright enough, to make sense of them. One of the reasons for this failure was that many reporters and their editors agreed with Presidents Eisenhower, Kennedy and Johnson that the line against "global communism" had to be held in Vietnam.

It was not as though the United States was not warned about getting involved in Vietnam, either. There were always a handful of Americans saying, "No."

There were foreigners with insight and experience saying "no" too: Gunnar Myrdal, the famous Swedish social anthropologist; U Thant, the gentle Burmese. And then there was the French president, Charles de Gaulle. France was forced out of Indochina. Under De Gaulle, France was to give up Algeria. Surely he knew what he was talking about.

As far back as 1961, when there were only a few hundred American soldiers in Vietnam, De Gaulle told Kennedy: "You now want to assume our succession to rekindle a war that we ended. I predict to you that you will, step by step, become sucked into a bottomless military and political quagmire. . . ."

But few American politicians ever paid much attention to the French. The French were too cynical; worse, they were losers. It was a French general who first said there was "light at the end of the tunnel." That was Henri Eugene Navarre, commander of all French forces in Indochina, and he said it in September 1953—barely eight months before the French defeat at Dien Bien Phu.

Despite France's experience, America's Cold War warriors took up the trail. Secure in their myths and moral pretentions, they kept sending young Americans out to die in the search for that "light." All for nothing. Sometimes the absurdity of it all was shattering. I came to appreciate the true whimsy of "Alice in Wonderland," and when that no longer sufficed, the rear silence of Samuel Beckett: "You must go on, I can't go on, I'll go on."

For a young woman who has grown up in a reasonably rational home, the whole Vietnam War must be very hard to understand, particularly since a lot of what you might have read about the big battles in Vietnam and the Pentagon's "pacification" and "nation-building" schemes obscured what really was happening out there.

It was not "foreign aggression." It wasn't even a "civil war," though I have used those words myself in an attmept to catch the flavor of Vietnamese struggling against Vietnamese. It was a revolution. There is no other word to describe it, for that's what the Vietnamese have known it to be since the 1920s.

That shouldn't be hard for Americans to understand. The Vietnamese revolution had its own Declaration of Independence (proclaimed by its founding father, Ho Chi Minh, 30 years ago this August) and its own Redcoats and Hessians—the French, the Japanese, the British, who held Vietnam until the French returned, and finally, when the French lost, the Americans and their allies.

As for the war, itself, it wasn't wall-to-wall every day of the week, you understand, though it must have seemed that way to your mother from TV and the headlines. A lot of the war was like being in a series of college locker-rooms, where it was "frig" this and "frig" that. "When you can kill hell out of them out there, goddamit, you feel real good." That was Maj. Gen. James Hollingsworth in April 1972.

It was all very macho—males testing themselves, going out on combat, "humping the boonies." Some of the American press was like that, too, I regret to say. It's a pity there weren't more women reporters out there to have pricked all that macho.

There were a few, though, among them Oriana Fallaci and Gloria Emerson, who re-

ported from Vietnam for the New York Times for more than two years.

Here is a sample of Ms. Emerson's thoughts about the men who fought the war (much the same could be said of some of the senior U.S. diplomats out there, too): "Many officers were small men with a talent for deceit. They lied about bodycounts, military targets, the war they insisted they were winning and even the morale of their troops. They were men with pleasant manners and dim minds . . . and carefully turned up sleeves to show a bit of muscle . . . for whom only other Americans were real. . . ."

The GIs, generally, she adds, "were very much smarter and understood so much more than their officers." How true. And many of them, fighting for a losing cause in a strange faraway land, continued to make personal sacrifices and perform acts of bravery that were all the more remarkable.

Not all the officers were of the mold that Ms. Emerson wrote about, though I must agree they certainly seemed to be in the majority; maybe that's what the army does to men. But there were bright and sensitive ones, too, and several of them became my close friends. There was much that their country was doing in Vietnam that they deplored. On the whole, however, the war was a massively nasty business, stripping away from many it touched the little decencies that are a hallmark of civilized people.

An incident I witnessed stays with me to this day. A regiment of the 1st Air Cavalry, the glamour unit of the early days of the American war, had just come back from a running battle up the Ia Drang valley in the Central Highlands.

It had been a long and dirty battle; I had been along for part of it. The regiment (which bore Custer's number, ironically) had claimed a big bag. After we had all showered, we gathered in the officers' mess. Some of the officers were missing, and quite a number of GIs had been killed. But the officers were in great form, laughing and flirting with a couple of Red Cross nurses. The chaplain bought a round of drinks.

Another time I was having a drink in the bar at the top of Saigon's Mia Loan hotel, which was, in truth, a seven-story whorehouse, but the bar was a good place to get away from everything. Pete Kumpa of the Baltimore Sun and I used to wander up there from time to time to get the "air." The 18-year-old son of a well-known Southern senator turned up, drunk as a young Bourbon lord, $200 in his pocket and a Polaroid camera in his hand. He had just come up from the Mekong Delta, where he was flying helicopters. He was, he said, going to take pictures in every room on every floor of the hotel. I heard later that he had tried, but finally got thrown out by an enraged soldier who couldn't have cared less that the chopper-jockey was a warrant officer and a senator's son to boot.

War stories. They weren't all bad; there were a lot of Americans out there who really tried hard to do something for the Vietnamese. I still have some twinges of nostalgia—like the nostalgia of an aging ex-colonial—for the good things, the fine meals at Rene's Golden Lotus and a small but trusted parcel of friends, Vietnamese, American, German, British, French, rogues, some of them, but they had some style.

Anyway it's all over now for the Americans—for the time being at least. "Chacun son tour. . . . Adjourd'hui le tien, demain le mien," as Francois Sully used to say. "To each his turn, Today yours, tomorrow mine." (Sully, one of Newsweek's finest, was killed in Vietnam.)

"It's over," a young Revolutionary Government official told an Associated Press correspondent in Hue last week. "But what a cost. Thirty years of people being killed and our land destroyed. Now there is much to do."

But don't think for a minute that it couldn't happen again. Don't let the men who run this country push it under the rug. Insist that you see what's under that rug, and when you have, hang it up in the fresh air and give it a good beating.

FURTHER RELIEF FOR CYPRUS NEEDED

Mr. BROOKE. Mr. President, the victims of the military conflict on Cyprus are still in urgent need of help from outside parties. As the disputes over the future of government on that island drag on, the people continue to lack food, shelter, and aid for restoring their homes and livelihoods.

Last Friday the Senator from Maryland (Mr. MATHIAS) and I introduced S. 1761, a bill to provide $25 million in additional aid for the victims of the tragedy on Cyprus. This is intended to express congressional determination for the building of a peaceful and prosperous Cyprus. Many of my colleagues have joined this effort, and now I am pleased to note that the Evening Star in Washington has editorialized in support of such aid.

The Star editorial merits the attention of all my colleagues, and I ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Evening Star, May 20, 1975]

RELIEF FOR CYPRUS

As a rule, we are inclined to forget too easily the devastations of last year in our preoccupation with those of this year. Last September's hurricane in Honduras long ago has passed from the news columns, but the suffering from it goes on, unreported. Likewise, the savage war that swept Cyprus last summer fades in the light of later tragedies, though in this case the aftermath of human travail is kept before us somewhat better. And, fortunately, the need to relieve it is receiving attention in Congress.

Senator Mathias of Maryland proposes $25 million in humanitarian aid to the people of Cyprus in the next fiscal year, and this is, if anything, on the modest side. The war's frightful destruction is not fully visualized by most Americans. Neither is the hardship entailed in that vast displacement of people which resulted from the island's forced partition, brought about by power of Turkish arms. Upwards of 200,000 refugees are badly in need of assistance, many of them requiring food and shelter. Some help in economic regeneration also is deemed vital, in view of the staggering destruction of resources. As an example, 89,000 acres of forests were swept by fires during the conflict, and plans for reforestation now are in the works.

Apparently, the relief sent thus far from this country has been well administered (mainly by the United Nations), and Mathias's measure would continue it another year at about the current funding level. But perhaps we can do a bit better than this. The United States' diplomatic performance as calamity overtook the tortured island was not, to say the least, one of our better moments. Maybe we could not have prevented the worst from happening there, but now we should do our best to reduce the suffering that abides.

MAY 20—CAMEROON NATIONAL DAY

Mr. HARTKE. Mr. President, the United Republic of Cameroon celebrates its National Day today, May 20.

Cameroon became independent from colonial rule on January 1, 1960, and adopted its constitution May 20, 1972, which gave rise to using this day as National Day.

Located in the geographical crossroads of Africa, the Cameroon has become politically stable under the able and democratic guidance of President Ahmadou Ahidjo; who has guided the country's destiny since independence.

President Ahidjo has long maintained that a single unified party was necessary to create national unity. This party, "The National Cameroon Union—UNC" was formed in 1966 and provides a list of candidates for elections.

The United Republic of Cameroon exports large quantities of coffee and coca, in excess of $20 million; while importing large orders of communication equipment and tobacco.

With the anticipation of new revenue from oil which has been discovered in fairly large quanities, the Cameroon's infrastructure is being improved, and the national transportation system is being extended to all sections of the country.

At the present time there are few Cameroonian students studying in the United States; however, the government plans to educate many more in the near future.

Mr. President, we look forward to continued good relations with the United Republic of Cameroon, and I take this opportunity to extend to the Head of State, the Government, and the people of the Cameroon continued success.

AGENCY FOR CONSUMER ADVOCACY

Mr. FANNIN. Mr. President, yesterday the Washington Star published an excellent editorial pointing out the many shortcomings of the legislation passed by the Senate to create an Agency for Consumer Advocacy.

The editorial notes that it is difficult for Members of Congress to vote against this bill, because many Americans have been led to believe that this legislation would help consumers.

Mr. President, this bill in fact is a detriment to consumers and to the American people. As the editorial suggests, the new agency will become a bureaucratic monstrosity which could cost consumers far more than it could save them. The editorial also observes that there is no one consumer interest on most issues; what is good for one consumer is bad for another. Suppose a regulatory agency is considering allowing rate hikes for a given service. The consumer already locked into a source of supply which may not be cut off is quite naturally in favor of holding down the rates. Another citizen who wants to become a purchaser

of the service may favor a rate increase, because that is the only way the supply will be increased to serve more people.

Mr. President, this consumer agency would be super powerful, because it could cause havoc in various segments of our economy. It could rob Americans of access to goods and services. This is an extremely dangerous piece of legislation, and I hope the House of Representatives will treat it accordingly.

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

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

CONSUMER BUREAUCRACY

Certainly the Senate's passage last week of legislation to create a federal consumer protection agency came as no surprise. The measure had been filibustered last year and this year by its dedicated opponents, who knew they were defeated once it got to the floor for an up-or-down vote. For not too many legislators want to be tagged with an "anti-consumer" vote, though many know that this particular remedy may turn into something that lots of consumers will wish they never heard of.

Still, 28 senators did have the nerve to vote against this bill to set up an Agency for Consumer Advocacy, so even if the House passes it (as seems likely) there is a bare chance that a presidential veto could not be overridden. And President Ford, who opposes the measure with a good deal of fervor, should not fail to veto it if the House follows the Senate's lamentable lead.

This will require some extra courage, though, even as the negative Senate votes did. The naysayers risked the political retribution of various shrill groups that see this as the great crossing over into the promised land of consumerism, and have naught but criticism for anyone who hesitates at the shore. The crossing may be a jubilant affair, but we expect that a lot of cactus awaits on the other side. This envisioned consumer agency has the capacity to become an administrative monstrosity beyond compare, which will bedazzle even those of us who are used to seeing infant bureaucracies balloon into giant dominions.

A clue to the possibilities may be found in a glad statement given after the Senate vote by the Consumer Federation of America: "It is gratifying to know that the Senate has moved to give consumers a voice in the thousands of federal agency decisions which daily affect their health, safety and economic well-being." The word that caught our eye was thousands. Thousands, indeed. This agency would be into everything under the sun. In a decade or less, with its almost limitless scope, we would not be at all surprised to see it grow into a department with thousands of lawyers and investigators on its payroll, and branch offices coast to coast. Though its proposed beginnings are modest enough—a $60 million authorization over three years—it diffused mission makes mammoth expansion of both funding and functions almost inevitable. The cost of the operation might very well outweigh its benefits to the taxpayer, in the long run.

For the fact remains that regulatory agencies already exist to provide the protections referred to by the Consumer Federation, and surely no one thinks that all these are utterly failing. In addition, there are dozens of consumer protection units at work right now in the federal government. Hence the duplication of effort could be enormous if this new agency gets going, but undoubtedly its administrator would become awesomely powerful. He or she would have vast latitude to define "the consumer's interests" in riding herd over the other federal agencies. In addition, the agency would be a clearing house for consumer complaints (has your pop-up toaster pooped out?), while going to bat for the consumers in court, conducting studies and surveys, running a public information service, assisting state consumer agencies, interrogating business and doing a number of other things.

It is a task of almost impossible dimension. And of course the fly in this soup is that consumers' interests quite often are in conflict: What's good for one group is anathema to another, yet the consumer czar would be supposed to speak for "the consumer" as some sort of a singular being. This dilemma already has turned the Senate bill into a hypocritical absurdity. To pass the measure, the senators found it necessary to vote several exemptions to its provisions, most notably farming operations and labor-management affairs. If these do not bear upon products and prices in a big way, nothing does.

So the concept is being applied selectively, with favors for certain politically powerful segments, even before it's enacted into law. This is reason for the House to consider well what a tangled thing it is contemplating and for President Ford to stand ready for a veto.

AT 71 MY CUP RUNNETH OVER

Mr. McINTYRE. Mr. President, in the latest issue of the Senior Times Cooperative, published by the New Hampshire Association for the Elderly, two articles appeared which describe the success of two projects now being run in my State which provide senior citizens with an opportunity for new learning and growth.

Far too often our society has the tendency to treat our older members with what we may call deference, but what in reality is neglect. The image of an elderly person calmly rocking in a chair in the corner, may be comforting to some, but it certainly ignores the vitality and the immense reserve of talent that remains untapped in our senior population. Funded by title I of the Higher Education Act, and title III of the Older Americans Act, these projects are proving that the senior years can be an exciting and exhilarating time.

Programs such as those at New England College, and at the Manchester area colleges—Saint Anselm's, Mount Saint Mary, and Notre Dame—are examples of the excitement and challenge that can be provided to senior citizens. Certainly the funds that are spent in the area of senior education are reaping profits in human terms that make this a most worthy investment indeed.

As Mrs. Emily Venator of Dunbarton, N.H., a student at St. Anselm's, says:

The administrators, and all with whom I have had contact, are most gracious and kind. Everywhere there is friendliness which goes far beyond courtesy, and helpfulness which exceeds all expectations! At 71, my cup runneth over!

So that my colleagues in Congress might know of these fine programs, I ask unanimous consent that these articles be printed in the RECORD.

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

THIRTEEN SENIORS ENROLL

HENNIKER, N.H.—For 13 senior citizens from the greater Concord, N.H. area, this past fall and winter have turned out to be an adventure of major proportions, but the best is yet to come.

The baker's dozen of elders spent several autumn weeks becoming acquainted with the campus, students and faculty of New England College and then capped their orientation by enrolling for second-semester courses. In February, the 13 men and women began probing such academic areas as biology, sociology, folklore, American literature, plus a wide range of other offerings available at the small liberal arts college.

The program, the latest of NEC's innovative educational endeavors, was designed to enrich the lives of senior citizens and operates within the recently-inaugurated School of Continuing Education.

According to Dr. Edward F. Rutledge, director of administration for the School of Continuing Education, the program was aimed at broadcasting the horizons of each senior citizen.

"We tried to design the program so they could be taking courses that will open new areas of interest, as well as help them build on their present areas of interest," Rutledge said.

"Some of the senior citizens are doing volunteer work so we took this into consideration when we decided to develop the program. Hopefully, they'll accumulate factual information in areas that will help them with their volunteer work."

New England College enlisted the assistance of the Retired Senior Volunteer Program (RSVP) in Concord in making many arrangements for the program.

Nine of the 13 elders took two courses and the remaining four just one course. All courses were non-credit and conducted on an auditing basis.

The program ran through the entire second semester and senior citizens were transported to campus each Tuesday and Thursday morning to audit courses of their choice. During the afternoon, they attended seminars specially designed to enhance the kinds of activities in which they are involved and to discuss their activities both on and off the campus."

The orientation period, which started Oct. 30 and concluded Dec. 11, was labeled a huge succes sby Marianne Jaffe, program director.

"During the orientation," Ms. Jaffe noted, "the senior citizens attended different classes and seminars with selected faculty and got to know many resident undergraduates while exploring college facilities. They also had the opportunity to attend special events such as plays, concerts, lectures and exhibits.

"We started the program because we felt New England College has something to offer senior citizens in the community and that senior citizens have something to offer the New England College community. We're providing a new atmosphere in which to challenge and expand their ideas with various members of the college community and also providing them with the traditional classroom situation where ideas and information are exchanged, as well as providing the facilities they might not ordinarily have access to in order for them to explore their interests."

Developed by New England College, the program is supported by a Title III grant of the Older American Act under the auspices of the New Hampshire State Council on Aging.

AT MANCHESTER AREA COLLEGES

Advancing years and retirement from work do not mean retirement from life. Personal growth, personality development, and learn-

ing continue throughout one's life. In an effort to foster and sustain such growth in the older adult population of Manchester, three colleges in the area—Saint Anselm's, Mount Saint Mary, and Notre Dame—have developed an on-going educational program which has as its goal enhancing the quality of life of those who have reached sixty and over. Supported by a Title I grant, faculty members from the three colleges have developed an on-going educational program which has as its goal enhancing the quality of life of those who have reached sixty and over. Supported by a Title I grant, faculty members from the three colleges have developed and shared educational experiences with persons over sixty.

The first phase of the program, entitled Experiences in Education, was a live-in seminar held at St. Anselm's College last summer. As part of the plan for continuing education, several courses which were suggested by senior citizens who attended the live-in seminar have been designed and given by faculty members of the three colleges during the 1974-75 academic year. Some of the offerings include nutrition, psycholory of aging, modern social problems, sewing, pottery, and folk dancing.

For some of the participants the program has led to enrollment in regularly scheduled college classes together with other senior citizens now studying at the local colleges, though not involved in the Experiences in Education program.

Mrs. Emily Venator of Dunbarton is currently taking two courses at St. Anselm's College, English literature and creative writing, and has set down her reactions to the experience. Mrs. Venator writes:

"After 40 years of responsible employment in the business world, I faced retirement without any concrete plans for a future. Although I had enjoyed my work, I realized that it had not brought me the fulfillment I had desired for my life. I had wanted to be a teacher and a writer. I had also hoped for marriage and a family; these blessings were granted to me, with a bonus blessing of two fine grandchildren. Throughout the years, also, I had enjoyed many rewarding activities involving both youth and adults.

"I had not, however, been a proper steward of the talents God had given me. Then, by His grace, the doors of St. Anselm's College in Goffstown were opened to senior citizens. These doors opened to opportunities for happy creativity; they were not gates which closed upon achievements and memories of the past! Two weeks after my retirement, I enrolled in regularly scheduled courses in English literature and creative writing; I have never been happier!

"I have unlimited praise for the quality of teaching at St. Anselm's, and the deepest appreciation for the encouragement and assistance given me as graciously and wholeheartedly as to any of the aspiring young students. My age has not been in any way a restricting factor, and my young classmates treat me as a peer. I am very much at ease and singularly happy.

"The administrators, and all with whom I have had contact, are most gracious and kind. Everywhere there is friendliness which goes far beyond courtesy, and helpfulness which exceeds all expectations! At 71 'my cup runneth over!'

"My husband likes to drive me to school, and waits for me in the car. He, too, is overwhelmed by the warmth of kindness shown him. While he has been invited into the classroom, and to enjoy the advantages offered in the library, he finds it convenient to rest in the car, due to a back injury. Busy people take the time to stop and talk with him: Teachers, priests, pupils—can they know what great joy they give him? What a privilege it is to be a senior citizen with a new, joyous, extended life at St. Anselm's College in Goffstown, New Hampshire!"

SENATE MAJORITY WHIP GIVEN HIGH JOB PERFORMANCE RATING

Mr. HUMPHREY. Mr. President, recently the Wall Street Journal in a feature article described the work, activities, and career of the Senate majority whip and my good friend, the Senator from West Virginia, ROBERT C. BYRD. I feel that this article is so informative that every Member of Congress should have the opportunity to read it.

Those of us who have been associated and worked with BOB BYRD know of his diligence, his personal integrity, his legislative competence, and his basic sense of decency and fair play. These are some of the qualities that make Senator ROBERT C. BYRD an effective leader in the Congress. He has become a spokesman for the Democratic Party but, even more importantly, he has become a spokesman for national public policy. I ask unanimous consent that the article be printed in the RECORD.

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

IMPROBABLE CHIEF: LONG A CONSERVATIVE, SENATOR BYRD OFTEN RUNS LIBERAL-LADEN SENATE; IF MANSFIELD SHOULD RETIRE, WEST VIRGINIAN IS LIKELY TO BE MAJORITY LEADER; CHANGE IN THE ISSUES HELPS

(By Arlen J. Large)

WASHINGTON.—The Senate was about to take one of its periodic vacations. Assistant Democratic Leader Robert Byrd of West Virginia bade his colleagues goodbye with a flair that showed he had been reading the dictionary again:

"Looking ahead, may I say that the leadership wishes all Senators a felicific respite from their lucubrations here. May Senators, after a reposeful holiday, return to these difficile tasks with renewed verve and reviviscent strength."

Webster says anyone involved with "lucubrations" is engaged in "laborious study." That may not always fit the Senate as a whole, but it's Sen. Byrd all over. The man reads the dictionary, page by page, for the same reason he devours the Senate rulebook, to improve and improve and improve the cold efficiency with which he increasingly dominates the Senate.

"It isn't the use of big words so much as the precision of language that counts, and the excellence of grammar," says Mr. Byrd, puffing a cigar in his office at the end of a meandering Capitol corridor. "It seems to me that the American people ought to pride themselves on a better use of English. We're all rather slovenly, most of us are, in the use of our English. It's a beautiful language, and we ought to be more precise."

IN SENATE FOR 16 YEARS

Though he's one of the Senate's more precise speakers, Mr. Byrd still occasionally makes use of S-219, a room just off the Senate chamber. There, Senators can look over a transcript of what they've said during debate, and pretty up their remarks. But Sen. Byrd says he probably uses that room less now than when he came to the Senate 16 years ago after service in the U.S. House and the West Virginia legislature.

In his early Senate years, Robert Byrd established a record of conservatism—some even say racism—that made it seem most unlikely he'd ever become the leader of the Senate's mostly liberal Democrats. Yet as 72-year-old Mike Mansfield, the current Majority Leader, increasingly assumes the role of elder statesman, Sen. Byrd frequently finds himself as the man who runs the Senate. Mr. Mansfield hasn't given any indication of retiring to Montana at the end of his term next year, but if he does, Sen. Byrd is the clear front-runner for Majority Leader.

"I don't think Bob would have any problem," says one liberal Democratic Senator. "He'd become the Majority Leader." Some other liberals might back an opponent, but there isn't any clear rival and nobody is underestimating the West Virginian's strength.

NAACP LEADER UNHAPPY

The prospect bothers one outsider, Clarence Mitchell. As lobbyist for the National Association for the Advancement of Colored People, he has battled Sen. Byrd on many past civil rights barricades. "He'd have a tremendous number of backers, people who think he's good because he works so hard," Mr. Mitchell says. "But there is the question of whether he'd give the Democratic Party a good image or not." Mr. Mitchell says he hopes someone else runs if Sen. Mansfield should retire.

Meanwhile, Sen. Byrd is the model of respectful deference to the Majority Leader. When Mr. Mansfield chooses to take command, as he did at a critical point during the recent tax debate, Sen. Byrd loyally fades to the background.

But he stays there less and less. Even now, in his No. 2 spot, Sen. Byrd is at the center of a remarkable effort among Senate Democrats to function as a more cohesive legislative party. Senators traditionally have behaved as independent-minded prima donnas, compared with House members more accustomed to the party lash. But this year, more than in recent memory, Senate Democrats are aping their House colleagues in constant caucusing to set the party line for legislative voting. The prospect isn't promising for the Ford administrtaion, which needs Democratic defections.

For example, when the Senate voted to scotch the President's power to raise the oil import tariff, only two Democrats balked. Southern Democrats who often team up with Republicans on questions of presidential authority—including James Eastland of Mississippi, John Sparkman of Alabama, John McClellan of Arkansas—voted with other Democrats.

MORE VOTING TOGETHER?

Sen. Byrd says: "The old Southern bloc, so-called, that was so effective during the great civil rights debates really is not existent, certainly to the degree that it once was. In those years it coalesced with the Republicans in many situations, and that's no longer existent. So I think Democrats as a whole will be voting together more."

With the government divided between a Democratic Congress and a Republican executive, Mr. Byrd sees an obligation for the Senate majority "to develop programs as alternatives to those which we oppose." In this view, party functions in the Senate ought to go beyond assignment of members to committees and placement of desks in the chamber. The party, Sen. Byrd says, "does provide the mechanism by which organized thinking and organized action can be brought to bear on the problems that confront our people."

(More weeks must pass before it's known whether alternative Democratic caucus plans on energy and other matters will actually show up on any law books; except for rejecting Ford proposals, so far not much has come of all the caucusing.)

At age 57 the seldom-smiling Mr. Byrd has swept-back graying hair, a taste for somber clothes and a passion for orderly surround-

ings. The hubbub in the Senate chamber during close, dramatic roll-call votes used to vex him greatly, so he banished to the gallery the throngs of staff aides who habitually had rubbernecked from the floor. He regards the current Senate rules as an untidy mess, some of them unused entirely, some found in this law or that. A project he's looking forward to this year is to codify them into one orderly document.

COMFORTABLE WITH NEW ISSUES

It's the recent preoccupation of Congress with the economy and energy, rather than civil rights laws, that allows Sen. Byrd to move so comfortably in the Democratic mainstream. In the old days, he often voted with the Southern bloc he now thinks is fading, which was a faction of the party closed off from the mostly liberal national party leadership. Now he's a recognized part of that leadership, even being asked regularly by television interviewers about a possible presidential candidacy.

His answer is pure Byrd, calculating, precisely shaded to acknowledge his new status while not going overboard: "I'm not uninterested."

Nobody was asking presidential questions early in Mr. Byrd's Senate career. For a time he was chairman of the Appropriations subcommittee handling funds for the mostly black District of Columbia. The lifestyles of welfare mothers and their supposed "paramours" grated on a work ethic acquired during the Senator's impoverished youth (he's unrelated to the famous Virginia dynasty that produced Sens. Harry Byrd Sr. and Jr.), and he regularly attacked "welfare cheats." Many Washingtonians detected a racial smack. That he was a long-ago member of the Ku Klux Klan didn't help.

Mr. Byrd voted against the 1964 Civil Rights Act, which was delayed for weeks by a Senate filibuster. He recalls being subjected to "arm-twisting torture and torment" by President Johnson, who telephoned to ask him to vote to end the filibuster. The President dangled a federal judgeship. He also offered to send him on an official trip overseas that would get "a lot of favorable publicity back home" while letting him miss the filibuster vote. Sen. Byrd stood fast.

CHANGE OF HEART

He now says he would vote for that bill if is came up again today—a change of heart shown by several of its original opponents. A similar switch is coming on the 1965 Voting Rights Act, which he opposed as unconstitutional. He voted against the act's extension in 1970 and as recently as two years ago said he still thought it unconstitutional. Now, however, he says he plans to vote for a further extension later this year.

In the early Nixon years Mr. Byrd often seemed a White House ally. He fervently denounced campus demonstrators. He helped head off a legislated pullout of U.S. troops from Cambodia in 1970. He voted for the Supreme Court nominations of Clement Haynsworth and Harrold Carswell, though most Democrats didn't. Richard Nixon's affinity with Sen. Byrd reached its peak in 1971, when the President temporarily put him on a list of possible nominees for the Supreme Court. (Mr. Byrd has a law degree from American University here, but he has never practiced.)

After the 1972 McGovern debacle, Sen. Byrd advised his party to "get rid of the pro-welfare, giveaway image, the pro-permissiveness image, the pro-busing image, the meat-ax cuts of defense funds and get back into the middle of the stream." But even then those issues were beginning to fade in Congress. Mr. Byrd found himself increasingly in tune with other Democrats in fighting Mr. Nixon's post-1972 assertion of budget powers. He led the opposition to the nomination of L. Patrick Gray as Federal Bureau of Investigation director, and as the Watergate fight sharpened, took a key role in protecting the special prosecutor's independence. The Senator has attacked President Ford harshly, criticizing his economic policies and energy plans and questioning his general ability to lead.

HE MADE IT ON HIS OWN

While outside circumstances have helped Mr. Byrd become more of a party regular in the liberal Senate, his inside climb to power had been almost wholly due to his own efforts.

Few paid attention in 1967 when Democrats elected him secretary of their caucus. It rarely met anyway, and the job was regarded as a clubby honorific. But it put Sen. Byrd in "the leadership," however tenuously, and he surprised everyone by beginning to lead on the Senate floor.

Perhaps the most surprised was Sen. Edward Kennedy of Massachusetts, who then held the No. 2 job as Assistant Majority Leader, or Whip. Like Sen. Russell Long of Louisiana before him. Sen. Kennedy wore the Whip's toga instead of the Whip's working clothes. Sen. Byrd became known as the man who handled all the details of making the Senate function. He would patrol the floor, engineer agreements on the time to vote, keep bills from colliding.

In a headlined coup in 1971, Sen. Byrd defeated the world-famous Mr. Kennedy for the Whip's job. After the caucus vote the West Virginian popped with exhilaration as he described his nervy ambush to a ring of reporters. His prior vote count showed he had just enough support to win, provided he could cast the proxy of Sen. Richard Russell of Georgia, then on his deathbed at Walter Reed Hospital in Washington. If Sen. Russell had died before the meeting started, Sen. Byrd wouldn't have made the challenge at all. After the meeting began, an aide told him Sen. Russell was still alive, so he signaled a backer to nominate him for Whip. Sen. Russell died 4½ hours later.

The new Whip assured alarmed liberals that he would only be a "legislative technician," not an ideological salesman. As the months wore on, he continued his old task of managing procedural details.

ROLE IN FILIBUSTER FIGHT

Mr. Byrd still does all that, but this year especially he has taken on matters of more substance. For example, it was the majority Whip who became the tough floor captain of the recent successful drive to make it easier to end filibusters. It had started as a project of true-blue liberals, and Sen. Byrd originally thought it hopeless. But they quickly showed enough strength to force defenders of the old filibuster rule to resort to unseemingly stalling to avoid a final vote.

"It was determined by the leadership that the Senate was deteriorating into a situation in which a very bad mood prevailed," Sen. Byrd recalls. "A bad image was being projected to the American people."

The original liberal managers went to the sidelines and Sen. Byrd came forward to do battle with Alabama's Democratic Sen. James Allen, the conservative master of the rulebook. Sen. Byrd moved to table everything Sen. Allen wanted to do, because that required an instant vote without any time-consuming argument. At one point he even had to move to table the Lord's Prayer, and was backed up by an embarrassed Senate.

Now Mr. Byrd hopes the new rule, under which 60 Senators can stop a filibuster instead of the former 67 when everybody's present, will head off for years to come any attempt to silence debate by a simple majority, which some liberals have advocated. The effect of the rules change on actual legislation may be made dramatically evident tomorrow, when the Senate votes on ending debate on creation of a federal consumer-advocacy agency. Last year, under the old rules, the measure was killed by a filibuster.

And he acknowledges that the new rule, though disliked by hard-core conservatives, may be useful in the current climate. It will, he predicts, allow passage of "legislation that's needed to deal with the recession, inflation, energy, unemployment and so on without being straitjacketed in talkathons."

An interviewer is well into his next question, but Mr. Byrd is worrying about his English again. "By the way," he interrupts, "that should be straitjacketed 'by' talkathons, instead of 'in' talkathons."

MALPRACTICE INSURANCE

Mr. FANNIN. Mr. President, on April 21, 1975, I introduced Senate Resolution 150 calling for a White House conference on the problems of malpractice insurance for the medical profession. Yesterday the Washington Post printed a very interesting article regarding what one institution has done to try to cut its insurance costs. This article contains a discussion of some of the problems involved. It is my belief that if we could bring people in the health care industry together we could get a thorough airing of the issues and a pooling of the ideas, such as mentioned in this article, which would be helpful in resolving the problem.

Mr. President, I ask unanimous consent that the article be printed in the RECORD for the benefit of my colleagues who may not have had the opportunity to see it.

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

[From the Washington Post, May 18, 1975]

MALPRACTICE: THE DOCTORS' DILEMMA

(By Stuart Auerbach)

All is not grim on the malpractice front. While doctors in Nothern California strike over a 300 per cent increase in their insurance premiums and some hospitals in New York worry whether they can get malpractice coverage at all, one Florida hospital stands immune.

Halifax Hospital and Medical Center in Daytona Beach has no trouble getting insurance and its rates are one-fourth the national average.

Yet it runs the same risks as other hospitals: Surgeons sometimes leave instruments in patients; some patients are given the wrong drugs; X-rays are read incorrectly and there are errors in lab tests.

The lawyers who practice in Daytona Beach are similar to lawyers elsewhere who are blamed by organized medicine for fueling the malpractice fires by pushing dubious cases. And the insurance companies who write policies there are the same ones raising rates and cancelling policies in other areas.

Why, then, is Halifax Hospital succeeding in beating the malpractice crisis hitting the rest of the nation?

The answer is deceptively simple: Halifax polices the medical care it offers and makes sure that it catches any mistakes before a patient finds out about them. Then the patient, his family, the doctor and the hospital administration discuss what can be done.

"Whatever is right is done for the patient," said Jack Mullins, the Daytona Beach insurance man who devised the system 10 years ago. "Our experience is that 99 per cent of the people are happy to accept this procedure and don't want to sue."

During the past decade, Mullins said, the 500-bed hospital recorded about 20,000 cases where something went wrong with its medical care. But the hospital has had to make payments in only 150 of the cases.

Some of the payments are expensive. In one case, settled out of court, the hospital paid out almost $1 million. In another case, where a surgeon left an instrument in a young woman, the hospital paid $200,000.

"We got the doctor, the family and the patient together and told them what happened," said Mullins. "The patient was a young woman. She spent 18 months in the hospital. It took a good five-year period of rehabilitation for her to get fully healthy."

"If it had gone to court," the insurance expert continued, "there's no Florida jury that wouldn't have given this patient $500,000 to $1 million.

The million dollar judgment. That's what all doctors and insurance companies fear. Until 1968, there had never been a million-dollar payment for medical malpractice; 10 years ago, said Dr. David S. Rubsamen, a doctor-lawyer expert on malpractice, a severely injured patient considered himself lucky to win a $500,000 judgment.

Since 1968, however, there have been a dozen or more million-dollar malpractice settlements in California alone, at least 30 in the nation. In one case two years ago, a 13-year-old boy won the largest personal injury judgment on record—a $4 million verdict against a San Francisco hospital and doctor.

The statistics get worse as far as doctors are concerned. According to the American Medical Association, malpractice suits against doctors were rare in the 1960s—about 1.7 suits per 100 doctors. By 1972, that ratio had almost doubled, to three suits per 100 doctors. The high-risk specialists such as orthopedic surgeons and anesthesiologists were hit even harder; in Washington each of these specialists now faces a suit every three or four years.

One major malpractice insurance company, St. Paul Fire and Mutual, reported that one out of every 10 doctors it covers now has a claim pending against him compared to one out of 23 in 1969.

Yet a special government commission on Medical Malpractice reported two years ago that patients sue in only a small percentage of cases where malpractice is committed.

About 20,000 malpractice suits are filed each year. But Dr. Roger O. Egeberg, the former assistant secretary of the Department of Health, Education, and Welfare who is now the government's leading expert on malpractice, estimated that there are as many as 700,000 medical injuries caused by negligence each year.

"Most injured patients are reluctant to institute medical malpractice suits," said Rep. James F. Hastings (R-N.Y.), who has become a congressional expert on malpractice.

But it is clear that this reluctance is slowly disappearing due to what the American Medical Association calls a rising tide of consumerism.

So it is no wonder insurance companies are trying to pull out of the field. Until 10 years ago, malpractice insurance was considered good business for insurance companies. They assiduously courted state, county and local medical associations for group coverage that was highly profitable to them.

But now, as a result of the new high judgments and growing claims, there are fewer than 10 companies still writing medical malpractice insurance in the country.

According to Barron's, a weekly financial newspaper published by Dow-Jones, 1974 was the worst year in history for casualty insurers. The losses in claims were an important factor—St. Paul estimated that so far it has lost $5.5 million on cases brought against doctors it insured in 1969. In addition, however, the insurance companies suffered investment reverses that cut into the reserves they keep to pay claims. Barron's put these investment loses at $6 billion last year for all casualty insurers, including those writing medical malpractice policies.

While it would appear that the companies are making staggering profits on the basis of one year's record of premiums collected and claims paid out, a peculiarity of the malpractice business belies this.

It seemed, for example, that Employer's Insurance of Wausau, which covered members of the New York State Medical Society, took in premiums in 1973 that were more than twice the total paid out in claims. But testimony before the New York State Legislature showed that the company actually lost $120 million during the 25 years it has covered New York's doctors.

The reason for the disparity between one year's premium income and claims outgo is the so-called "long-tail losses."

Only 10 per cent of all malpractice claims are filed in the first year, and it takes an average of 14 years from the time of injury to settle a claim. While doctors would like to place a strict statute of limitations on malpractice cases, many injuries don't turn up until years later.

Take the case of a sponge left in a patient after an operation—supposed to be uncommon now because of the practice (instituted, lawyers claim, as a result of the number of malpractice suits) of making sure that everything that went in a patient is accounted for before the final stitches are sewn.

That sponge may not be discovered until years later, when it causes some form of intestinal obstruction that requires a second operation.

It is clearly negligent malpractice, however, and the patient deserves to collect both the cost of the second operation and the pain and suffering it caused. But the time span plays hob with any attempts by insurance companies to manage their reserves.

The ability to file malpractice claims long after injury has occurred also causes occasional inequities for both insurance company and doctor. In Brooklyn this year, for example, a 22-year-old woman named Gail Kalmowitz won a $165,000 award (the jury would have given her $900,000, but she decided to settle before the verdict was in) for the medical treatment that left her blinded shortly after birth.

Born prematurely and weighing only 2½ pounds, given little change of survival, she was treated with doses of oxygen—the standard treatment of the day of trying to save the lives of low-weight premature infants. The studies which showed that oxygen caused blindness were not even launched until three months after Miss Kalmowitz was born.

Nevertheless, her condition created a massive amount of sympathy among the jurors, who hugged her after the settlement had been announced and said she should have waited for their much larger award.

For doctors, though, the case is a clear example of yesterday's medical practice being judged by today's more sophisticated standards.

But while the "long-tail losses" cause some inequities, the delays in claims also have provided the insurance companies with investment income—that is, they did until last year's stock market plunge.

As a result of this combination of factors, the insurance companies have increased their malpractice premiums substantially. The cost of malpractice insurance nationally rose from $60 million in 1960 to an estimated $1 billion today—about 1 percent of America's medical care costs.

Argonaut, which took over coverage for New York doctors in 1974 when Wausau withdrew, increased its rates by 93.6 per cent the first year. The company asked for a 196.8 percent increase this year and, when the new rate hike was condemned by doctors, threatened to pull out of the state as of July 1.

In Florida, Argonaut kept increasing its rates until the firm and the state medical society ended up in a federal court case that has not yet been decided. In negotiations Argonaut first agreed to limit its premium rise to 75 per cent, but then a month later jumped the increase to 96 per cent, according to Dr. Harold Parham, executive director of the Florida Medical Society. Despite an existing contract, he said, within three months Argonaut demanded another 200 per cent increase.

Parham, who secured a promise from Chairman Paul Rogers (D–Fla), of the House health subcommittee to open an investigation of malpractice insurers, said that Argonaut has been ordered out of the medical malpractice business by its corporate owners, the aerospace conglomerate Teledyne. In its annual report, Teledyne admitted making a costly "mistake" in allowing Argonaut to write malpractice coverage and said it plans to discontinue writing policies for individual doctors this year.

The lawyers bear the brunt of attacks by doctors and insurance men for precipitating the malpractice crisis. In turn, the lawyers claim to be representing the rights of the injured patients.

The key attack on the lawyers concerns the contingency fee arrangement—under which lawyers get a portion (usually about 30 percent) of any settlement if they win and nothing if they lose.

Lawyers defend this system as the only way a poor man has of suing a doctor. They also say it helps weed out suits with little merit. But doctors and insurance men feel it encourages lawyers to seek cases which will win sympathy—and fat verdicts—from jurors and to ignore cases involving small damage sums (less than $5,000) that are not worth their while.

Moreover, the idea of a lawyer's earning fat fees ($300,000 on a $1 million verdict) from a case in which he works no harder than he would on others winning smaller verdicts appears unfair on the surface.

Yet studies show that the patients' lawyers receiving contingency fees earn less than 20 per cent more than insurance company lawyers who are paid on an hourly basis of $60 to $100 an hour.

Any way you cut it, medical malpractice cases are among the most expensive and time-consuming to try. The government's Commission on Medical Malpractice found that they take four times as many hours as other personal injury cases. The intricacies of medical cases virtually dictate that expensive expert witnesses be hired by both sides.

The complexity of the cases, according to doctors, argues that medical malpractice should not be tried before juries, which can be swayed by emotion. Instead, the doctors contend, they should go to binding arbitration.

But, as Sen. Edward M. Kennedy (D-Mass.) pointed out to AMA President Dr. Malcolm C. Todd, that would be a violation of the constitutional rights of Americans to a jury trial. Moreover, Kennedy said, other complex cases such as antitrust suits are handled through jury trials.

Doctor, lawyer, insurance man—the only

one left out of the equation is the patient involved. He suffers the most.

He is, first of all, the victim of the original malpractice. The national Commission on Medical Malpractice found that the cause of most malpractice cases is, indeed, medical malpractice.

And, despite the recent dramatic examples of high awards, the average malpractice victim gets only a small slice of the premium pie. Studies show that patients receive about 16 cents out of every dollar physicians pay in insurance premiums. The remainder goes toward paying legal fees, trial expenses and insurance company overhead and profits.

Incidentally, the odds favor the doctors. Statistics demonstrate that they win 80 per cent of the cases which go to the jury and about 55 per cent of all cases.

In any case, the patient—injured or not—bears the brunt of the added cost of malpractice insurance, which doctors and hospitals merely add on to their bills.

The solutions offered by the medical, legal insurance professions to deal with the burgeoning malpractice problem are aimed at easing their own particular burdens. Rarely do they attack the main issue—medical malpractice itself.

By accident or design, however, Florida's Halifax Hospital has focused on the malpractice problem where it starts—at the hospital bed. Some 75 per cent of all malpractice cases arise from a hospitalization.

"If we perceive any questionable case, we try to take the initiative," said Ned Wiford, the hospital administrator. His comptroller, Roland Luke, added that "courteous, quick expedient handling of problems that crop "up" results in fewer malpractice suits.

Self-policing can work for individual doctors as well as hospitals. In the District of Columbia, for example, the medical society has begun working closely with its insuror to find doctors who attract more malpractice suits than the average physician. Through pressure by society members, an effort is made to compel such doctors to improve their methods of practicing medicine. They may also have to pay higher premiums than other doctors in the area.

As a result of this program, premiums in the District are one-fifth of those in such states as California and New York.

Self-policing, says HEW's Egeberg, is "a good idea that seems to work." He adds that it has not been tried "nearly enough" across the country.

INTERHEMISPHERIC CONFERENCE ON LAW, POPULATION, AND THE STATUS OF WOMEN

Mr. KENNEDY. Mr. President, this past week, 60 eminent women lawyers, legislators, and judges from 38 countries, met to discuss law, population, and the status of women. The conference was one of the major contributions of the United States to the United Nations International Women's Year, supported by the Department of State through the Agency for International Development.

I had the honor last week in joining with Congresswoman PAT SCHROEDER in hosting a congressional reception for the delegates, and it was a distinctive privilege to have an opportunity to meet with them.

During the Conference, conducted at Airlie Foundation, the delegates discussed different systems of law as they pertain to population and the status of women. They wrestled with a number of difficult and controversial issues, but succeeded in joining to recommend a number of reforms necessary to increase the status of women, particularly in regard to their freedom to plan their own family.

Mr. President, I believe the concluding resolution of the conference, as well as the final recommendations adopted by the conferees, deserve the attention and consideration of the Senate, and I ask unanimous consent that they be printed in the RECORD.

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

RECOMMENDATIONS OF THE FIRST INTERHEMISPHERIC CONFERENCE ON LAW, POPULATION, AND THE STATUS OF WOMEN

PREAMBLE

Whereas, the First Inter-Hemispheric Conference on Law, Population and the Status of Women has met for the past five days, under the auspices of the Agency for International Development, to study the variables and similarities of the key legal systems usually known as Continental, Islamic, Commonwealth/Carribean, Latin American and Constitutional Law;

Whereas, the conferees also studied examples of the beneficial effect of legal reforms on the status of women and family planning programs under each of the legal systems;

Whereas, the conferees realize that each of the legal systems as applied as national law requires immediate and continuing revision through legislative amendment, judicial interpretation and agency ruling;

Whereas, women lawyers have special responsibilities both as women and as lawyers, judges, legislators and lobbyists to act as agents of change in the legal issues relating to population and the status of women;

Now be it *resolved* that the conferees have adopted the following resolutions and recommendations as the initial step in meeting their special responsibilities as women lawyers; and will upon return to their respective countries endeavor to bring about the recommended legal reforms and changes.

LAW AND THE STATUS OF WOMEN

In order that a woman be a person able to contribute to and to benefit from social progress and development, she must enjoy full equality with men in law, in fact in all fields.

Discrimination against women continues to exist under every legal system, making it necessary that the principles embodied in the U.N. Declaration on the Elimination of Discrimination Against Women be studied carefully in every country so that gaps in national legislation can be identified and urgently needed legal reforms undertaken.

The U.N. Declaration identified certain fields as needing special consideration, namely, family law (Article 6), penal codes (Article 7), and employment rights (Article 10). We therefore offer the following conclusions and recommendations:

1. That in order to insure that women will understand and exercise their legal rights, the civic education of women, particularly of those who lead a marginal existence, be undertaken through concrete community projects which respond to the perceived needs of these women and which help them to participate in resolving their immediate problems.

2. That in every country national organizations, both official and private, and including religious ones, carry out information campaigns concerning the Declaration of the United Nations on the Elimination of Discrimination Against Women so that women become aware of their rights and obligations and so that legal provisions move from the theoretical to the practical level.

3. That specific bodies such as women's bureaus and national commissions on the status of women be formed in countries where they do not exist to monitor and evaluate the status and role of women and to recommend legal reforms and action programs aimed at the advancement of women and their integration in development, and that women lawyers play a leading role on these commissions.

4. That special courts for families and juveniles be established in those countries where they do not exist in order to overcome the difficulties faced by women in legal proceedings and to insure the immediate recognition of their rights and those of their children.

5. That in those countries where legal discrimination with regard to marriage and divorce still exists those reforms necessary to obtain legal equality between man and woman be undertaken, and legal provisions be made for divorce where they do not exist. Grounds for divorce shall be the same for men and women.

6. That parental rights and obligations be shared equally between father and mother, and that a wife be entitled to joint legal custody with her husband of all children born in wedlock particularly with regard to giving consent for marriage of such children and obtaining of immigration documents.

7. That equal legal status be granted to all children whether born in or out of wedlock, and in cases where paternity is not admitted, immediate steps be taken through the legal and quasi legal systems to determine such paternity.

8. That, whereas in some countries laws discriminate against women and children who are part of families not legally formalized in marriage, women who cohabit with men in stable unions and children who are born in these unions must receive adequate financial support and full legal protections to assure their well-being and dignity.

9. That property acquired during marriage be shared and administered by both spouses and that women have the same inheritance rights as men.

10. That each person have the equal opportunity of remunerative work outside the home, and every individual enjoy equal rights as to salary, fringe benefits and working conditions for equal work.

11. That maternity protection not be used as a ground for discriminating against women, and that maternity leave with pay be a human right of working women.

12. That tax laws be revised to ensure that spouses are taxed separately and on an equal basis.

13. That social insurance programs not discriminate against women whether with respect to the age at which benefits are received or with respect to the amount of benefits.

14. That women not automatically lose their nationality through marriage.

15. That steps should be taken for the elimination of polygamy where it exists legally.

16. That in those countries where the criminal law code discriminates on the basis of sex with respect to sex crimes (razones de honor), reforms necessary to correct such discrimination be undertaken in accordance with human rights.

FERTILITY

Bearing in mind that family planning has now become a basic aspect of the health and

socio-economic welfare of women, children and the family, contraceptive information, education and services must be available so that a woman may exercise her right to control her own fertility. We recommend:

1. That there be no legal barriers to the distribution of information, education and services in connection with all safe and acceptable methods of contraception so that all persons, of any age, and all couples, may have the right to freely choose the number and spacing of their children. Such information, education and services should be made available by the government without expense, at least to those people who could not otherwise afford them, and the government should publicize such availability. In this connection, the government should work closely with the private organizations in this field.

2. That with due regard to the legal and cultural traditions and mores, and the economic needs, of the respective countries, governments adopt such legislation as may be required to make voluntary sterilization available to adults for contraceptive purposes ensuring freedom of choice, based upon legally competent and fully informed consent, and subject to proper medical procedures and requirements. Governments should further ensure that neither criminal nor civil penalties or liabilities be imposed by legislation, court decision, administrative ruling or in any way, upon persons undergoing voluntary sterilization for contraceptive purposes or, except in cases of negligence, upon medically authorized persons performing such sterilizations.

3. That a woman having an abortion in the early stages of pregnancy not be dealt with under the penal codes, but be accorded humane treatment, legal protection, and effective contraceptive advice. Abortion after the early stages of pregnancy should be permitted at least to protect the life and physical and mental health of the women, and particularly to prevent the birth of defective offspring, and in cases of rape and incest. The voluntary consent of the woman is required for an abortion. No individual, doctor or other personnel should be compelled to participate in an abortion procedure against his or her conscience, but in the case where such objections are made, the woman requesting the abortion should be referred to a person or institution which does offer such procedures.

4. That menstrual regulation where pregnancy is not established be treated in the same manner as any health act, and not be governed by laws relating to abortion.

5. That the law and regulations should enable training, licensing, protection and use of nurses, midwives, social workers and other paramedicals to permit them to dispense family planning services to persons on a voluntary basis, with special emphasis in rural and developing areas.

6. That barriers to the importation of contraceptives be removed in those countries where they exist.

7. That the concept of responsible parenthood be used as one effective means to promote family planning services.

8. That family planning information, education and services be made available to minors and that persons providing such care to minors be given adequate legal protection.

9. That population education and sexuality education be provided on a school and non-school basis.

10. That women make every effort to persuade the media of mass communication including, but not limited to, newspapers, television and radio to publish regularly at least once a week news and information relating to family planning and its availability.

THE ROLE OF WOMEN LAWYERS AS AGENTS OF CHANGE

Whereas, women lawyers as members of the legal profession have training and expertise in the study, understanding, interpretation and drafting of laws;

Whereas, women lawyers, greatly concerned with problems affecting women, recognize their responsibility to work toward resolving issues concerning the status of women in all spheres of life and to confront matters related to population and the law;

Whereas, women lawyers, in addition to performing their roles as jurists, legislators and counsellors in all areas of law, have a desire and special responsibility to work together with persons of all nations to seek solutions to these problems;

We, therefore, recommend that women lawyers everywhere:

(1) Review the laws of their own countries to raise them at least to U.N. standards, and where additional changes in national laws are necessary, to eliminate all discrimination against women, ensure reform and enforcement of such laws without discrimination.

(2) Ensure that laws extending equality of treatment to women are effectively implemented to the end that practice may conform to law, including guaranteed free legal services for the vindication of such rights.

(3) Establish and maintain a constant exchange of ideas, information, strategies and model laws among women lawyers on matters of common concern, particularly in the fields of status of women and the right of the individual to control personal fertility.

(4) Inform the public as a whole and alert women in particular of the legal rights and responsibilities of women, and make known in their respective countries the subjects discussed and the resolutions approved by this Conference.

(5) Accelerate and ensure the achievement of equality for women throughout the world by becoming more involved in the decision-making bodies of religious and cultural institutions in order to influence the policies and actions of these organizations so that they will reflect equal status for men and women.

(6) Become more involved in public affairs for greater participation in policy making at the local, national and international level.

(7) Exert every effort to enlist the support of men, particularly their colleagues in the legal profession, in the achievement of common goals.

(8) Become involved in inter-disciplinary studies to explore fully the inter-relationship of the legal aspects of the status of women to population and development questions in order to make recommendations and take appropriate action in the areas of policy making and development planning.

(9) Take timely action to assure a follow-up conference next year to allow reporting on achievements in the legal field in the interim and to chart new paths to gaining the stated goals of the First Inter-Hemispheric Conference on Law, Population and the Status of Women.

MEDICAL MALPRACTICE: A DILEMMA

Mr. McINTYRE. Mr. President, in Sunday's Washington Post, Mr. Stuart Auerbach has had published an article which is very worthwhile indeed.

As a layman, I must admit that the entire malpractice issue gives me great concern. Doctors, lawyers, insurance companies, all point at one another and yell "foul," and meanwhile the rates soar, the costs rise, and the consumer is faced with absorbing higher costs through his bills, while the actual fact of medical malpractice remains.

Mr. Auerbach points out quite clearly that the very center of the problem, medical malpractice, can be dealt with, and the fine example of the Halifax Hospital and Medical Center in Daytona Beach is cited. But it strikes me as rather sad, Mr. President, that this is the exception and not the rule.

I found the following excerpt most interesting:

Doctor, lawyer, insurance man—the only one left out of the equation is the patient involved. He suffers the most.

He is first of all, the victim of the original malpractice. The national Commission on Medical Malpractice found that the cause of most malpractice cases is, indeed, medical malpractice.

It would seem to me then that the most effective way of dealing with this situation is for all the parties concerned to begin focusing on the problem itself.

In identifying and explaining that problem, I found Mr. Auerbach's article to be most helpful, and I ask unanimous consent that the full text of the article be printed in the RECORD.

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

[From the Washington Post, May 18, 1975]

MALPRACTICE: THE DOCTORS' DILEMMA

(By Stuart Auerbach)

All is not grim on the malpractice front. While doctors in Northern California strike over a 300 per cent increase in their insurance premiums and some hospitals in New York worry whether they can get malpractice coverage at all, one Florida hospital stands immune.

Halifax Hospital and Medical Center in Daytona Beach has no trouble getting insurance and its rates are one-fourth the national average.

Yet it runs the same risks as other hospitals: Surgeons sometimes leave instruments in patients; some patients are given the wrong drugs; X-rays are read incorrectly and there are errors in lab tests.

The lawyers who practice in Daytona Beach are similar to lawyers elsewhere who are blamed by organized medicine for fueling the malpractice fires by pushing dubious cases. And the insurance companies who write policies there are the same ones raising rates and cancelling policies in other areas.

Why, then, is Halifax Hospital succeeding in beating the malpractice crisis hitting the rest of the nation?

The answer is deceptively simple: Halifax polices the medical care it offers and makes sure that it catches any mistakes before a patient finds out about them. Then the patient, his family, the doctor and the hospital administration discuss what can be done.

"Whatever is right is done for the patient," said Jack Mullins, the Daytona Beach insurance man who devised the system 10 years ago. "Our experience is that 99 per cent of the people are happy to accept this procedure and don't want to sue."

During the past decade, Mullins said, the 500-bed hospital recorded about 20,000 cases where something went wrong with its medical care. But the hospital has had to make payments in only 150 of the cases.

Some of the payments are expensive. In one case, settled out of court, the hospital paid out almost $1 million. In another case, where a surgeon left an instrument in a young women, the hospital paid $200,000.

"We got the doctor, the family and the patient together and told them what happened," said Mullins. "The patient was a young woman. She spent 18 months in the hospital. It took a good five-year period of rehabilitation for her to get fully healthy."

"If it had gone to court," the insurance expert continued, "there's no Florida jury that wouldn't have given this patient $500,000 to $1 million."

The million dollar judgment. That's what all doctors and insurance companies fear. Until 1968, there had never been a million-dollar payment for medical malpractice; 10 years ago, said Dr. David S. Rubsmen, a doctor-lawyer expert on malpractice, a severely injured patient considered himself lucky to win a $500,000 judgment.

Since 1968, however, there have been a dozen or more million-dollar malpractice settlements in California alone, at least 30 in the nation. In one case two years ago, a 13-year-old boy won the largest personal injury judgment on record—a $4 million verdict against a San Francisco hospital and doctor.

The statistics get worse as far as doctors are concerned. According to the American Medical Association, malpractice suits against doctors were rare in the 1960s—about 1.7 suits per 100 doctors. By 1972, that ratio had almost doubled, to three suits per 100 doctors. The high-risk specialists such as orthopedic surgeons and anesthesiologists were hit even harder; in Washington each of these specialists now faces a suit every three or four years.

One major malpractice insurance company, St. Paul Fire and Mutual, reported that one out of every 10 doctors it covers now has a claim pending against him compared to one out of 23 in 1969.

Yet a special government commission on Medical Malpractice reported two years ago that patients sue in only a small percentage of cases where malpractice is committed.

About 20,000 malpractice suits are filed each year. But Dr. Roger O. Egeberg, the former assistant secretary of the Department of Health, Education and Welfare who is now the government's leading expert on malpractice, estimated that there are as many as 700,000 medical injuries caused by negligence each year.

"Most injured patients are reluctant to institute medical malpractice suits," said Rep. James F. Hastings (R-N.Y.), who has become a congressional expert on malpractice.

But it is clear that this reluctance is slowly disappearing due to what the American Medical Association calls a rising tide of consumerism.

So it is no wonder insurance companies are trying to pull out of the field. Until 10 years ago, malpractice insurance was considered good business for insurance companies. They assiduously courted state, county and local medical associations for group coverage that was highly profitable to them.

But now, as a result of the new high judgments and growing claims, there are fewer than 10 companies still writing medical malpractice insurance in the country.

According to Barron's, a weekly financial newspaper published by Dow-Jones, 1974 was the worst year in history for casualty insurers. The losses in claims were an important factor—St. Paul estimated that so far it has lost $5.5 million on cases brought against doctors it insured in 1969. In addition, however, the insurance companies suffered investment reverses that cut into the reserves they keep to pay claims. Barron's put these investment losses at $6 billion last year for all casualty insurers, including those writing medical malpractice policies.

While it would appear that the companies are making staggering profits on the basis of one year's record of premiums collected and claims paid out, a peculiarity of the malpractice business belies this.

It seemed, for example, that Employers' Insurance of Wausau, which covered members of the New York State Medical Society, took in premiums in 1973 that were more than twice the total paid out in claims. But testimony before the New York State Legislature showed that the company actually lost $120 million during the 25 years it has covered New York's doctors.

The reason for the disparity between one year's premium income and claims outgo is the so-called "long-tail losses."

Only 10 per cent of all malpractice claims are filed in the first year, and it takes an average of 14 years from the time of injury to settle a claim. While doctors would like to place a strict statute of limitations on malpractice cases, many injuries don't turn up until years later.

Take the case of a sponge left in a patient after an operation—supposed to be uncommon now because of the practice (instituted, lawyers claim, as a result of the number of malpractice suits) of making sure that everything that went in a patient is accounted for before the final stitches are sewn.

That sponge may not be discovered until years later, when it causes some form of intestinal obstruction that requires a second operation.

It is clearly negligent malpractice, however, and the patient deserves to collect both the cost of the second operation and the pain and suffering it caused. But the time span plays hob with any attempts by insurance companies to manage their reserves.

The ability to file malpractice claims long after injury has occurred also causes occasional inequities for both insurance company and doctor. In Brooklyn this year, for example, a 22-year-old woman named Gail Kalmowitz won a $165,000 award (the jury would have given her $900,000 but she decided to settle before the verdict was in) for the medical treatment that left her blinded shortly after birth.

Born prematurely and weighing only 2½ pounds, given little chance of survival, she was treated with doses of oxygen—the standard treatment of the day of trying to save the lives of low-weight premature infants. The studies which showed that oxygen caused blindness were not even launched until three months after Miss Kalmowitz was born.

Nevertheless, her condition created a massive amount of sympathy among the jurors, who hugged her after the settlement had been announced and said she should have waited for their much larger award.

For doctors, though, the case is a clear example of yesterday's medical practice being judged by today's more sophisticated standards.

But while the "long-tail losses" cause some inequities, the delays in claims also have provided the insurance companies with investment income—that is, they did until last year's stock market plunge.

As a result of this combination of factors, the insurance companies have increased their malpractice premiums substantially. The cost of malpractice insurance nationally rose from $60 million in 1960 to an estimated $1 billion today—about 1 per cent of America's medical care costs.

Argonaut, which took over coverage for New York doctors in 1974 when Wausau withdrew, increased its rates by 93.6 per cent the first year. The company asked for a 196.8 per cent increase this year and, when the new rate hike was condemned by doctors, threatened to pull out of the state as of July 1.

In Florida, Argonaut kept increasing its rates until the firm and the state medical society ended up in a federal court case that has not yet been decided. In negotiations Argonaut first agreed to limit its premium rise to 75 per cent, but then a month later jumped the increase to 96 per cent, according to Dr. Harold Parham, executive director of the Florida Medical Society. Despite an existing contract, he said, within three months Argonaut demanded another 200 per cent increase.

Parham, who secured a promise from Chairman Paul Rogers (D-Fla.) of the House health subcommittee to open an investigation of malpractice insurers, said that Argonaut has been ordered out of the medical malpractice business by its corporate owners, the aerospace conglomerate Teledyne. In its annual report, Teledyne admitted making a costly "mistake" in allowing Argonaut to write malpractice coverage and said it plans to discontinue writing policies for individual doctors this year.

The lawyers bear the brunt of attacks by doctors and insurance men for precipitating the malpractice crisis. In turn, the lawyers claim to be representing the rights of the injured patients.

The key attack on the lawyers concerns the contingency fee arrangement—under which lawyers get a portion (usually about 30 per cent) of any settlement if they win and nothing if they lose.

Lawyers defend this system as the only way a poor man has of suing a doctor. They also say it helps weed out suits with little merit. But doctors and insurance men feel it encourages lawyers to seek cases which will win sympathy—and fat verdicts—from jurors and to ignore cases involving small damage sums (less than $5,000) that are not worth their while.

Moreover, the idea of a lawyer's earning fat fees ($300,000 on a $1 million verdict) from a case in which he works no harder than he would on others winning smaller verdicts appears unfair on the surface.

Yet studies show that the patients' lawyers receiving contingency fees earn less than 20 per cent more than insurance company lawyers who are paid on an hourly basis of $60 to $100 an hour.

Any way you cut it, medical malpractice cases are among the most expensive and time-consuming to try. The government's Commission on Medical Malpractice found that they take four times as many hours as other personal injury cases. The intricacies of medical cases virtually dictate that expensive expert witnesses be hired by both sides.

The complexity of the cases, according to doctors, argues that medical malpractice should not be tried before juries, which can be swayed by emotion. Instead, the doctors contend, they should go to binding arbitration.

But, as Sen. Edward M. Kennedy (D-Mass.) pointed out to AMA President Dr. Malcolm C. Todd, that would be a violation of the constitutional right of Americans to a jury trial. Moreover, Kennedy said, other complex cases such as antitrust suits are handled through jury trials.

Doctor, lawyer, insurance man—the only one left out of the equation is the patient involved. He suffers the most.

He is, first of all, the victim of the original malpractice. The national Commission on Medical Malpractice found that the cause of most malpractice cases is, indeed, medical malpractice.

And, despite the recent dramatic examples of high awards, the average malpractice victim gets only a small slice of the premium pie. Studies show that patients receive about 16 cents out of every dollar physicians pay in insurance premiums. The remainder goes toward paying legal fees, trial expenses and insurance company overhead and profits.

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cent of the cases which go to the jury and about 55 per cent of all cases.

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"If we perceive any questionable case, we try to take the initative," said Ned Wiford, the hospital administrator. His comptroller, Roland Luke, added that "courteous, quick expedient handling of problems that crop up" results in fewer malpractice suits.

Self-policing can work for individual doctors as well as hospitals. In the District of Columbia, for example, the medical society has begun working closely with its insuror to find doctors who attract more malpractice suits than the average physician. Through pressure by society members, an effort is made to compel such doctors to improve their methods of practicing medicine. They may also have to pay higher premiums than other doctors in the area.

As a result of this program, premiums in the District are one-fifth of those in such states as California and New York.

Self-policing, says HEW's Egeberg, is "a good idea, that seems to work." He adds that it has not been tried "nearly enough" across the country.

EMERGENCY EMPLOYMENT APPROPRIATION ACT, 1975

Mr. CRANSTON. Mr. President, I take this opportunity to congratulate my colleagues on the Appropriations Committee for their excellent efforts in reaching agreement with the House on the Emergency Employment Appropriations Act, 1975, H.R. 4481, and to comment on a number of provisions contained in this measure. I, particularly, want to congratulate the Senate committee chairman, Mr. MCCLELLAN, and the ranking minority member, Mr. YOUNG for their fine work on both the Senate bill, and the conference report. There is no doubt that reaching agreement on this measure was a difficult task. Our Nation's grave economic situation forced both the Senate and the House committees to evaluate numerous considerations—many of them conflicting.

I believe the conference report represents an excellent balance of these various considerations, I congratulate the members once again, for a job very well done, and the Senate for its prompt consideration and adoption of the conference report on Friday, May 16, 1975.

I especially agree with the dual approach the conferees have taken to dealing with the unemployment crisis—that is, funding the public service employment program, in which funds are used directly for the creation of jobs and funding accelerated Federal construction, building, and purchase programs where funds will be used to create jobs indirectly through construction contracts, purchase of automobiles for Government use, further development of the Nation's recreational and public land resources, and other similar programs.

I have a number of reactions and comments regarding a number of items contained in the conference report. Many of my comments refer to programs that fall within the jurisdiction of the Labor-HEW Subcommittee. I especially want to thank the distinguished chairman of that subcommittee, Mr. MAGNUSON and the ranking minority member Mr. BROOKE for his continuing hard work and dedication to insuring adequate funding for these programs.

LABOR DEPARTMENT: FULL FUNDING FOR PUBLIC SERVICE JOBS

Mr. President, I am particularly gratified by the continued strong support and recognition of the need for additional funds for public service jobs evidenced by the conference report. That nearly 9 million Americans were unemployed last month is the devastating evidence of our Nation's plight. We must create jobs and put people back to work performing needed services as quickly as possible.

Mr. President, on January 30, 1975, I wrote to, and on February 27, I appeared before the Labor-HEW Subcommittee to urge immediate apropriation of the remaining $1.625 billion of the $2.5 billion authorized last December for emergency public service jobs this fiscal year—CETA, title VI. I am encouraged by the general agreement which exists between the administration and the Congress with respect to this recommendation. The approximately 217,000 more jobs created by the $1.625 added by the conference report are urgently needed to deal with the ongoing, critical unemployment problem.

I ask unanimous consent that my testimony before the committee be printed in the RECORD at this point.

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

STATEMENT BY SENATOR ALAN CRANSTON

Senator CRANSTON. Mr. Chairman, on January 30, Senator Kennedy and I wrote to you urging immediate supplemental and full funding for public service and public works jobs. I am here this morning to reemphasize the need for this action and to advise you that Senators Williams and Javits, the chairman and ranking minority member of the Labor and Public Welfare Committee, join with us in making this recommendation.

The need for additional funding is clear. Seven and one-half million Americans are out of work. The funds appropriated in the emergency supplemental last December for public service employment, however, will create only 117,000 jobs nationwide. In the State of California alone, almost one million people are out of work.

We must move with dispatch to make another 216,000 jobs available over the next 10 months by appropriating now the additional $1.625 billion authorized by title VI of the Comprehensive Employment and Training Act (CETA), as added by title I of the emergency jobs and unemployment assistance act of 1974.

As we pointed out in our January 30 letter—the time to act is now. The authorization is on the books. It is a fiscal year 1975 authorization under which funds appropriated may be obligated through December 31 of this year. There is presently no fiscal 1976 title VI authorization of appropriations.

By fully funding now what is authorized to be spent under title VI during this calendar year, we will be able to learn how effectively and swiftly these funds will be put to use, and, thereby, enhance our ability to decide on the best legislation for 1976.

We must not wait for the regular Second Supplemental Appropriations Act. We must provide the Department of Labor, the States, and the localities with the fiscal certainty they need to plan and implement effectively the public service jobs program and get people back to work. Let me stress the lead-time factor: by appropriating this money now, we will permit a vital measure of planning time for the department and the local sponsors. The $1.625 billion can be spread out in allocations over the spring, summer, and fall of 1975 to meet ongoing emergency employment needs.

Mr. Chairman, this is the same approach recommended by NAYCO [N.A.A.C.O.], the league of cities/U.S. conference of mayors, as well as counties and cities in California. Los Angeles County, for example, which has received $17.1 million of the December money, estimates that 5,000 more jobs—costing $40 million more—could easily be used in Los Angeles County alone between now and June.

Mr. Chairman, we also urge that you appropriate at the same time the additional $375 million authorized to be appropriated for the job opportunities program authorized by title III of the Emergency Jobs Act. This program provides emergency financial assistance to stimulate, maintain, or expand federally-funded projects with high job-creating potential in areas of the country, both urban and rural, suffering from unusually high levels of unemployment.

We understand that the Department of Commerce has received in 2 months almost $4 billion in more than 17,000 preliminary project requests from around the country. These are just those submitted and tallied thus far. San Diego County, alone, has requested 54 such projects.

So the need for full funding is clear in this program as well.

Mr. Chairman, a final note: Senator Javits will be submitting on Tuesday recommendations for supplemental funding for summer jobs. I wish to associate myself most strongly with those recommendations for this urgent supplemental. Here again, providing for planning time is critical.

Mr. Chairman, I know you and your subcommittee are keenly aware of, and dedicated to fighting, the disastrous economic conditions plaguing our Nation. I do not have to dramatize the need. I hope that you will agree with the job-creating appropriations we are recommending.

I very much appreciate your providing me with his opportunity to present our justification.

Mr. CRANSTON. Mr. President, on April 2, 1975, I was privileged to chair a day-long hearing in Los Angeles on the unemployment situation in California. This hearing of the Senate Labor and Public Welfare Committee was one in a series of hearings the committee has scheduled in its effort to devote top priority to the problems of employment and manpower. Significantly, nearly every participant at that hearing testified to the urgent need for additional funds for public service employment.

Mr. President, in addition to confirming the need for additional public service jobs, most hearing participants also stressed the need for an on-going public service employment program. I am totally in agreement with this view, and I have long advocated a continuing public service employment program. In this respect, my views differ substantially from those expressed by the Senate committee

in its report on this measure. Rather than going into detail at this point, Mr. President, I ask unanimous consent that my opening remarks from the April 2, 1975, hearing—which discuss my views with respect to the merits of short-term versus long-term approaches to public service employment—be printed in the RECORD at this point.

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

OPENING STATEMENT OF SENATOR ALAN CRANSTON, ACTING CHAIRMAN, COMMITTEE ON LABOR AND PUBLIC WELFARE, OPEN HEARING ON JOBS AND UNEMPLOYMENT IN CALIFORNIA, APRIL 2, 1975

A little more than a year ago, in a hearing in this very room, we focused on what was then called the "energy crisis" and its effect on job lay-offs.

Today, the energy crisis—although still a serious problem—is not the banner headline. The unemployment crisis is.

Massive nationwide unemployment has picked up where energy-related job cutbacks left off. That seven and one half million Americans are officially counted as jobless is the most serious indicator of the grave state of our economy.

This country is now experiencing what is fast becoming the longest and deepest economic decline since the Great Depression of the 1930's.

Senate Labor and Public Welfare Committee Chairman Harrison A. Williams, Jr. has asked me to chair this hearing today on aspects of the current unemployment situation in California. Under Senator Williams' very able leadership, the Committee is devoting top priority to the problems of employment and manpower. The Committee has already held four days of field hearings in two states and plans more in the weeks ahead. We have come to California where unemployment problems exceed in scale those anywhere else in the country.

In part, today's hearing will follow up last year's hearing on unemployment and the energy crisis. As I said, the energy problem is still very much with us, and we hope to determine how it continues to affect California.

Last year, the rate of unemployment in California was 7.3 percent, and some 700,000 people were unemployed here.

Today, the California unemployment rate is more than two percentage points higher—9.4 percent—and the number of persons out of work is pushing the one million mark.

Here in Los Angeles, nearly one out of every ten persons in the labor force was unable to find work last month.

Last February, unemployment—with the exception of construction—was concentrated in industries dependent upon large quantities of cheap energy.

Today, that's no longer the case. Lay-offs and declines in the growth of new jobs have hit virtually all sectors of the economy.

Just this week we learned that in the past year—in a variety of occupations throughout the state—the number of people drawing unemployment benefits in California has soared more than 100 percent!

Nationwide, the total leaped 127 percent since last year and the unemployment rate, which was 5.2 percent last year rose to 8.2 percent last month.

The number of long-term unemployed—persons unemployed 15 weeks or more—increased by nearly 300,000 to 1.8 million in February. Of this number, 700,000—almost 40 percent—had been unemployed 27 weeks or more.

Over half the national total of persons seeking work—the definition of "unemployed person"—are workers who have recently lost jobs. These are workers who last year were bringing home an income, but who today have no income and subsist on unemployment insurance. There are 3.9 million unemployed persons in this category—52 percent of the jobless total. This, and persistent long-term unemployment are the hardest evidence we have of a deep recession.

Equally disturbing is the fact that more than one third of all those unemployed are household heads or primary family supporters. The number of jobless primary breadwinners has nearly doubled since last February.

I know it's difficult to imagine just what these vast unemployment numbers mean. But the Nation's unemployed almost equal in number the total California labor force. Or, if one could imagine the entire labor force of Indiana, Wisconsin, Missouri, and Minnesota being unemployed at the same time, then one could begin to appreciate the gravity of our national plight and the immensity of individual personal tragedies involved in the seven and one half million/8.2 percent statistics.

The Department of Labor says that above the seven and one half million without jobs, close to another four million persons, nationwide, are working in part-time jobs because they cannot find fulltime work.

As if this news wasn't bad enough, the Department of Labor presented us with additional bad news last month. Although the rate of unemployment remained constant at 8.2 percent, total employment actually dropped very sharply—by 580,000 over January.

Since September, 1974, employment has dropped by 2.4 million, the largest 5-month decline in the post-World War II period.

Even Administration economists will not offer a ray of hope to brighten this gloom. They predict the downward cycle of our economy will not begin to let up until late this year at the earliest, and they allow that unemployment may reach 9 percent by summer.

AFL–CIO President George Meany, who has a better track record, says unemployment will be 10 percent.

And these figures do not even deal with what some economists call the "true level" of unemployment.

This includes officially recorded full-time unemployment, the full-time equivalent of part-time unemployment, and the concealed unemployment in the form of those able and willing to work who are not participating in the civilian labor force, and therefore, not counted as unemployed.

In the last quarter of 1974, there were 845,000 so-called "discouraged workers", persons who did not even look for a job because they thought they wouldn't find one. In February, alone, more than half a million people joined their ranks.

Thus, the true level of unemployment is probably over 10 percent right now. And this does not even include the 6.2 million Americans working for substandard wages, and the total of 23 million persons who live on annual earnings below the poverty level!

If we add these millions together, we are struck by the magnitude of our problem. Nearly 19 million of the 91.5 persons—fully one of every five workers—in our labor force need *decent* jobs!!

I don't think we can underestimate the gravity of this situation—either statistically or in terms of individual human tragedies and devastated families. People are angry and they are frightened. The fullness of their lives is declining, and, in many cases, their hopes and dreams have been dashed. Even those lucky enough to have jobs are truly fearful of losing them.

The question remains—what is to be done?

I think we would all agree that jobs are an integral part of purposeful economic development—and decent jobs are an integral part of human development. Clearly, the Federal government's most urgent responsibility during this recession is to try to provide jobs, to put people to work doing things that need to be done.

The $23 billion tax cut provided by the Tax Reduction Act, although a crucial step in our efforts to turn around the economy, will not, by itself, do the job. We must take additional action *now* to make sure that we receive the maximum stimulus of the tax cut. We must provide funds for an additional one million public service jobs. We must continue efforts to aid the housing and construction industry and to ease long-term interest rates. And, we must plan to extend unemployment compensation benefits again.

The actions we have taken and must take in the next few weeks involve some risks. But I think we all would agree that sitting back and doing nothing would accelerate the downward plunge of the economy.

Let me briefly describe some beginnings already under way in the Congress.

First, and most obviously, we must create new jobs. This can be done in a variety of ways.

One way is to appropriate more *money for* existing job development programs. In recent weeks, I wrote to and appeared before the Senate Appropriations Subcommittee on Labor-H.E.W. to urge immediate appropriation of the remaining $1.625 billion of the $2.5 billion authorized last December for emergency public service jobs this fiscal year.

With the appropriation of this new money, hopefully this month, California will have received a total of about $385 million under the program—enough to finance more than 51,000 jobs.

I further have worked to ensure adequate funding for a number of other job programs including summer youth jobs, jobs for older workers, WIN, college work/study, the National Summer Youth Sports Program, as well as $375 million for accelerated public works and backlogged Federal construction programs.

Funds for these programs would be provided by a special Emergency Employment appropriation, which has already passed the House and is awaiting Senate approval. I am confident that a total appropriations package of more than the House-passed 5.9 billion will be approved by the Senate soon after we return from the Easter recess.

As important as I believe these funding approaches are, however, creating nearly one million jobs still barely touches the tip of the iceberg.

I . . .

So I would propose that *secondly*, and most importantly, we can and must consider other ways to remedy the immediate crisis such as those I mentioned earlier—as well as to remedy the ongoing, serious level of unemployment that the Administration seems to find quite acceptable.

I am convinced that we must re-think our concepts of acceptable levels of unemployment and our views about what groups are acceptably unemployed or underemployed.

A recent study prepared by Leon H. Keyserling, former Chairman of the President's Council of Economic Advisors provides some very interesting and very useful information.

This study stresses that contrary to the Administration's figure of four percent for full employment, a considerably lower level of unemployment, moving toward zero, should be the target of national efforts, both public and private.

As the Keyserling study so accurately reveals:

"For fear of creating even more unemployment and an even deeper decline in production, neither enough nor entirely the right things are being done to reduce inflation. And for fear of causing even more inflation or prolonging the horrendous rate of the current inflation, not nearly enough nor entirely the right things are being done to reduce unemployment and increase production. We are getting the worst of the bargain on all scores."

As a partial response the study recommends a permanent public service employment program of one million jobs.

I couldn't agree more with the findings and proposed solutions of this study. In March, 1973, I advanced just this approach in introducing the "Public Service Employment Act of 1973". A number of its features were incorporated into the title II, C.E.T.A. public service employment provisions. Shortly after I return to Washington next week, I will reintroduce this legislation in revised form, to create 1.15 million new public service jobs in a long-range program to help stop the immediate spiral of recession and joblessness and insure against future, continuing high unemployment.

Short range programs are clearly not adequate to meet the ongoing need for job development. The legislation I am proposing will enable states, cities, counties, and school districts to hire and train many more of the men, women and young people who desperately need and want employment.

More than that, it would create a long-term competence at the local government level to establish and manage job training and creation programs keyed to local needs for education, law enforcement, pollution control, and other necessary services.

The number of jobs provided by recent legislation, and the legislation I intend to propose, would hardly be an overreaction to the great need for jobs. On the contrary, a continuing program of public service jobs would do much to prevent the continuation of these destructively high levels of wasted human resources.

Today, I hope to learn from your experience, your expertise, and your insights, so that I can help design new legislation to meet the very real needs of the people, the communities, the workers, the businesses, and the governmental bodies you represent.

Among the questions we will be probing are: How the need for alternative forms of energy and transportation can be coordinated with the need to create more jobs, and put large numbers of people back to work.

Which industries and occupations have been and will continue to be hardest hit by job lay-offs?

Are current public and private sector responses sufficient to deal with the severe rate of unemployment?

Do we need to develop wholly new mechanisms in order to respond better to the problems raised by recession unemployment rates?

Is the 13-week emergency increase—in the tax bill—in the number of weeks of unemployment compensation enough?

How will jobs be affected by the President's proposed budget and impoundments?

I will value your suggestions, and I am hopeful that, together, we can come up with answers.

SUMMER YOUTH JOBS PROGRAM

Mr. CRANSTON. Mr. President, I am encouraged that the Senate conferees succeeded in obtaining a $44 million increase over the House recommendation for the summer youth employment program. Although I regret that the Senate recommendation of $502,300,000 was cut at all, the $456 million provided by the conference report will do much to improve the opportunities for our Nation's youth this summer. Approximately 840,000 jobs will be available, a 10-percent increase over last year's level. By and large, I believe this recommendation is a sound response to the bipartisan recommendations submitted by 18 Senators, led by Senator JAVITS, in which I joined.

JOB OPPORTUNITIES PROGRAM

Mr. President, I also congratulate the Senate committee on its recommendation and strong language with respect to the job opportunities program. The committee's recommendation of $375,000,000 for this program, retained in the conference report, together with the $125,000,000 previously appropriated, will provide $500,000,000 for the program—the full authorization included in title X as added to the Public Works and Economic Development Act by title III of Public Law 93-567.

This program was designed to stimulate, maintain, or expand job-creating activities in areas of the country, both urban and rural, which are suffering from unusually high levels of unemployment. The conferees have acted wisely in recognizing the potential of this program for putting people back to work in useful productive employment, and, importantly, in understanding the need for both public service jobs and the job opportunities program, at this time.

Also in the conference report $81,625,000 to fund regular EDA programs that will lead directly to increased employment opportunities in impacted areas.

COMMUNITY SERVICES EMPLOYMENT FOR OLDER AMERICANS

Mr. President, I am in complete agreement with the conferee's recommendation for $30,000,000 to expand the program authorized by title IX of the Older Americans Act, which was initially funded in fiscal year 1974. Although I regret that this item was reduced by $6,000,000 in conference—the Senate had originally recommended $36,000,000—I am pleased that this much was retained in the conference report.

Title IX is designed to provide community service jobs for low-income Americans 55 years of age and older in the fields of education, social services, recreation services, conservation, environmental restoration, economic development, and the like.

Senior citizens, I believe, are particularly qualified to perform public service jobs. The talents and skills they have acquired from years of prior work experience represent an especially valuable resource we can ill afford to waste. Further, jobs provide the purchasing power needed for senior citizens to live independent lives—a difficult achievement in these times of deepening recession and inflation—as well as promote the sense of self-esteem and dignity that is so essential to good health and well-being.

COLLEGE WORK STUDY

Since its inception, the work-study program—wherein students combine part-time, federally subsidized employment with postsecondary education, has made education beyond high school a reality for thousands of Americans. The program is especially effective when students obtain employment that relates directly to career goals. The conference report and the Senate have approved $119,800,000 in work-study grants, to serve some 250,000 students in this academic year, during the summer, and in academic year 1975-76. Few actions contained in the Conference report offer such potential for meaningful work-education experiences.

INDIAN PROGRAMS

The conference report also includes $15,396,000 for operational and construction moneys for the Bureau of Indian Affairs. This is a modest increase in view of the enormous employment rates of native Americans both on and off Federal reservations. I believe that the Senate should seriously consider a sharp raise in appropriations for Indian employment-related programs when the next opportunity arises.

ARTS AND HUMANITIES

The conference report also provides a modest appropriation of $3 million for employment opportunities in cultural projects supported by the National Endowment for the Arts.

This appropriation is an important recognition that our current economic pressures affect our cultural institutions severely, and that they also, therefore, must receive our careful attention.

VETERANS' ADMINISTRATION

The conference report includes $70,755,000 for the costs of improvements in Veterans' Administration facilities. It is estimated that the initiation of these projects within the next 18 months will generate jobs for 4,642 unemployed individuals.

HOSPITAL PROJECTS

This funding will support $60 million worth of projects to maintain and repair VA hospitals and clinics. A portion of these projects will be allocated to repairs which will conserve the use of energy—such as insulation of heating lines, repair of windows and doors, roof repair, replacement of outmoded plumbing and heating systems, installation of energy monitoring systems, and installation of heating and cooling control systems.

In addition, Mr. President, this funding will provide the means to correct certain safety and patient comfort deficiencies cited in various JCAH—Joint Commission on Accreditation of Hospitals—reviews of VA hospitals, such as upgrading of patient shower and toilet areas to provide more privacy, and replacement of floor tiles, ceiling systems, and electrical power systems in patient areas. This appropriation will also enable the VA to upgrade certain of its animal research facilities to meet American Association Laboratory Animal Care requirements.

Five million dollars of the amount appropriated will be devoted to the demolition of vacated and unsafe buildings—some of them not meeting seismic safety standards—and the landscaping which will be required as a result of this demolition.

These hospital-related projects will create 4,050 jobs for primarily skilled craftsmen, such as plumbers, steamfitters, carpenters, electricians, and laborers.

In choosing the projects, the VA has made a firm commitment to place a priority on those areas of the Nation where unemployment is the highest.

For California, where the unemployment is 10 percent, among the highest in the Nation, the VA plans to devote $5,132,406 of this amount to the 10 VA facilities in that State.

As chairman of the Subcommittee on Health and Hospitals of the Committee on Veterans' Affairs, I am delighted with this appropriation, and was successful during deliberations of the Senate Budget Committee and the conference committee in obtaining an allowance for these funds within the function 700, veterans benefits and services, target ceiling in Concurrent Resolution 218, the first concurrent resolution on the budget.

CEMETERY PROJECTS

Mr. President, in addition to repairs and maintenance projects for medical facilities, the conference report includes $5,755,000 for maintenance of national veterans cemeteries. The major portion of this funding will be used to support maintenance projects at 82 of the 103 national cemeteries. These projects will provide 552 temporary jobs for unskilled employees.

Five hundred and fifty thousand dollars of this amount will support four construction projects in national cemeteries which will provide jobs for both skilled and nonskilled employees. These projects will be at Fort Logan National Cemetery, Colo.; Long Island National Cemetery, N.Y.—two projects—and Grafton National Cemetery, W. Va.

CONCLUSION

Mr. President, once again, I congratulate the conferees for their efforts in reaching agreement on this measure. The approach of this conference report represents much careful thought as to the manner in which we can best begin to remedy the millions of human tragedies brought on by our economic crisis.

NEGOTIATIONS REGARDING A WORLD FOOD RESERVE

Mr. HUMPHREY. Mr. President, I wish to call attention to a recent speech by Assistant Secretary of State Thomas Enders to the newspaper farm editors, regarding negotiations to establish an international food reserve. His statement was included in the May 6 issue of Milling and Baking News.

These efforts grow out of the World Food Conference and the willingness indicated by President Ford "to join in a worldwide effort to negotiate, establish, and maintain such a system."

Since the World Food Conference, negotiations have been proceeding under the auspices of the International Wheat Council. There has been a great deal of discussion and controversy over the position of Secretary Butz regarding the establishment of an international reserve system.

In his statement to the farm editors, Mr. Enders outlines some of the subjects which should be dealt with in regard to such a system—including exchanging information on stocks and crop prospects; agreement on the size of global reserves; guidelines on managing national reserves; and sharing the responsibility for holding reserves.

Many observers have pointed out that the United States should take the lead in this effort because of its obvious interest in an effective working system. The article indicates:

We have paid a high price domestically and internationally for not having an international stocks agreement. That price has been to assume too large a share of the burden of adjusting to swings in demand and supply of grains. Through much of the 1960s, it was primarily the U.S., as the relatively efficient grain producer, than was forced to set aside acreage in response to the agricultural policies adopted by others. In the 1970s, we have seen foreign buyers drain our stocks under exceptionally favorable terms, setting off wide swings in prices. We have been forced to adopt a system of quasi-export allocations to preserve supplies for our traditional markets and to respond to international appeals for consideration for food deficit areas on the verge of famine. Last year it has been our livestock sector, and not other consumers abroad, that has borne the brunt of adjustments in consumption resulting from the production shortfall.

Unfortunately, much of the domestic discussion over food reserves has centered on the cost of holding reserve stocks. There also should be discussion on the costs of not holding a reserve, as this article attempts to do.

Mr. President, I ask unanimous consent that this informative article be printed in the RECORD.

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

FAVORING WHEAT IN WORLD GRAIN RESERVE—STATE DEPARTMENT OFFICER DISCLOSES U.S. INCLINED TOWARD 30–40 MILLION-TONNE STOCKS; DECISIONS IN NEXT TWO MONTHS

WASHINGTON, May 5.—The U.S. government, in its commitments to help develop an international system of nationally-held grain reserve stocks, is "increasingly inclined" toward creation of a 30 to 40-million tonne reserve "consisting primarily" of wheat, rice and other food grains, according to Thomas C. Enders, assistant secretary of state.

Mr. Enders, in an address to the Newspaper Farm Editors of America conference in Washington, disclosed that "we in government have a generally agreed outline of the type of agreement we are seeking" and that the necessary decisions "must in all probability be made in the next two months."

"As a benchmark," Mr. Enders said, "we have assumed that reserves should be adequate to meet shortfalls likely to occur in 19 out of 20 years, or 95% of maximum shortfalls in a single year. Taking into account the likely production variabilities of all grains, our statistical studies indicate that a reserve of up to 60 million tonnes might be required. When only wheat and rice are considered, however, we find ourselves at the 30 to 35 million tonne range, and with wheat alone, it could be less. In general, therefore, we are thinking now in terms of a 30- to 40-million-tonne reserve."

Text of Mr. Enders' address to the farm editor follows:

Not only does American agriculture, with its unparalleled record of increasing productivity, play an increasingly important role in the conduct of our foreign relations, it is also clear, as the events of the past few years show, that decisions by foreign governments deeply affect American farmers, both in the cost of inputs, such as fuel and fertilizer, and the prices they receive for their products.

What I would like to speak about today is the development of an international system of nationally-held grain reserve stocks. I would like to tell you what our thinking is in the government. Then I hope you will tell me what you think, and what you believe American farmers are thinking.

In a speech to the United Nations General Assembly last fall, President Ford expressed U.S. willingness to join in a worldwide effort to negotiate, establish, and maintain such a system. Then at the World Food Conference in Rome in November, Secretary Kissinger proposed the negotiation of an agreement on an international reserves system to provide security against food emergencies, to include the following elements:

Exchange of information on levels of reserve and working stocks, on crop prospects and on intentions regarding imports or exports.

Agreement on the size of global reserves required to protect against famine and price fluctuations.

Sharing of the responsibility for holding reserves.

Guidelines on the management of national reserves, defining the conditions for adding to reserves and for releasing from them.

Preference for cooperating countries in the distribution of reserves.

Procedures for adjustment of targets and settlement of disputes and measures for dealing with non-compliance.

SESSIONS TO CLARIFY VIEWS

Since then, discussions have taken place in London, in Geneva and Brussels to clarify the views of the major producing and trading countries on this question. Work has also begun, under the auspices of the International Wheat Council, on some of the technical aspects of a possible reserves agreement. While the actual negotiation of such an agreement has yet to begin, many of the elements which will be included in these negotiations are already known.

Let me review the developments which led to U.S. interest in a reserves system and some of the benefits we see developing from it.

Up to a few years ago, the world had come to depend on a few exporting countries, primarily the United States, to hold large supplies of grain which in effect served as world reserves. Since 1972, however, serious production shortfalls in some areas and continued high levels of grain consumption combined to eliminate these surplus stocks. In the process, prices went to unprecedented levels.

The U.S. is unwilling to return to that situation of a few years ago in which one or a very few countries bear the burden of holding reserves for the rest of the world. At the same time, we are acutely aware of the need for adequate contingency stocks of grain to offset exceptional shortfalls in world food production, and thus prevent enforced cutbacks in consumption.

"HAVE PAID HIGH PRICE"

We have paid a high price domestically and internationally for not having an international stocks agreement. That price has been to assume too large a share of the burden of adjusting to swings in demand and supply of grains. Through much of the 1960s, it was primarily the U.S., as the relatively efficient grain producer, that was forced to set aside acreage in response to the agricultural policies adopted by others. In the 1970s, we have seen foreign buyers drain our stocks under exceptionally favorable terms, setting off wide swings in prices. We

have been forced to adopt a system of quasi-export allocations to preserve supplies for our traditional markets and to respond to international appeals for consideration for food deficit areas on the verge of famine. Last year it has been our livestock sector, and not other consumers abroad, that has borne the brunt of adjustments in consumption resulting from the production shortfall.

These adjustment problems, we believe, would have been mitigated or relieved had there been in operation an international agreement under which all participants would share in the build-up, holding and drawing of reserves on the basis of agreed rules.

It is natural that it should fall to the U.S. to take the initative in proposing a grain reserves agreement. Our role in the world food economy is predominant. Since 1972, the United States has provided about 40% of world exports of foodgrains and about 60% of feedgrains and oilseeds.

FARM AND FOREIGN POLICY

Having assumed this leadership role, we believe it essential to exercise it responsibly, both in support of our own interests and those of others. This does not mean subordinating our farm policy to our foreign policy. It means using it constructively in our dealings with other countries.

A reserves agreement, we believe, offers an opportunity to do just this. We share a general interest in preventing food shortages and famine anywhere in the world. The establishment of adequate grain reserves can play a specialized but very important role in this regard, by ensuring that supplies of grain do in fact exist to offset year-to-year fluctuations in world food production. Other programs apart from reserves are being developed to assist countries to increase the general level of their production to improve the means of food distribution and financing, and to provide food aid where needed. These are not, however, the purpose of reserves.

A reserves agreement must serve our own interests.

First, it must spread the responsibility for holding stocks among all participants, so that the economic burden of creating and maintaining stocks does not fall disproportionately on anyone.

Second, rules providing for the accumulation of stocks must help to remove excess supplies from the market in those years when production exceeds normal requirements, thereby preventing uneconomic price drops.

Third, rules for the drawdown of reserves must reduce the threat of stocks being dumped on the market without adequate justification. This is a point of particular interest to U.S. producers, who have been concerned that the existence in the past of large government-held stocks subject to capricious release has depressed market prices. Whatever its validity in the past, this objection can be substantially overcome by making the release of reserves subject to internationally as well as nationally accepted rules which would clearly define the conditions which require additional supplies of grain. Taken together, these rules for the accumulation and release of stocks would work to moderate extreme fluctuations in prices, which in general benefit neither producers nor consumers, but need not interfere with normal market operations.

Fourth, by encouraging all major consumers to hold reserves, the agreement would work to avoid situations like 1972, when the U.S.S.R. preempted a major share of our grain crop at bargain prices thereby shifting the burden of adjustment to their shortfall from the Soviet Union to us.

Finally, the establishment of a system of reserves subject to known rules regarding their release would represent an important assurance to importers of the reliability of the U.S. as a supplier of the grains they need and would reduce the threat of the abrupt imposition of export controls on these producers.

These are the benefits which we believe an effective reserves system could offer to U.S. producers and consumers. Others may not fully agree, but major differences seem to concern not the benefits themselves but instead how these promises would be most effectively fulfilled, and at what cost.

"GENERALLY AGREED" ON ELEMENTS

This brings me back to the specifics of what would be included in an agreement. At this point, we in government have a generally agreed outline of the type of an agreement we are seeking. The elements it should include are:

Commodity coverage.

Size of total reserve.

Distribution of the responsibility, or burden if you prefer, for holding reserves.

Guidelines or rules for the accumulation and release of reserves.

Rights and obligations of participants.

The first two points are closely linked. Four basic options exist with regard to commodity coverage; an agreement could include wheat, wheat and rice, wheat, rice and coarse grains used for food, or all grains. Wheat is clearly essential to any food reserve. While world production of rice is about the same as that of wheat, a much smaller share enters world trade. On the other hand, rice is a basic food in many of the areas where shortages are likely to occur, and we are likely to get cooperation of these countries in holding reserves only if they may include rice. The same arguments hold for coarse grains used for food. Finally, a case can be made for the inclusion of feedgrains because of their substitutability with wheat in world markets.

We are increasingly inclined toward a reserve consisting primarily of wheat, with provisions to include rice and other grains used for food where appropriate. Related to this is the question of the size of the total reserve. As a benchmark, we have assumed that reserves should be adequate to meet shortfalls likely to occur in 19 out of 20 years, or 95% of maximum shortfalls in a single year. Taking into account the likely production variabilities of all grains, our statistical studies indicate that a reserve of up to 60 million tonnes might be required. When only wheat and rice are considered, however, we find ourselves at the 30 to 35 million tonne range, and with wheat alone, it could be less. In general, therefore we are thinking now in terms of a 30 to 40 million tonne reserve.

To provide a rough comparison, U.S. wheat stocks at their peak, that is in 1961, amounted to about 38 million tonnes. I should make clear, however, that we are defining reserves as supplies in excess of normal working stocks, which are generally considered to be around 10% of a country's production or consumption, whichever is greater.

CRITERIA ON HOLDING STOCKS

Next is the question of who is to hold the stocks. This has both an international and a domestic aspect. The U.S. would like to see the rest of the world share in holding the necessary stocks. We have looked at some possible criteria, such as the level of G.N.P., variability of grain production, and the share of world trade, which could serve as a guide to the distribution of shares.

The agreement probably would not attempt to define how each country would hold its own stocks. Within the U.S., the Secretary of Agriculture now has sufficient authority to build, hold and draw down stocks. He has the possibility of doing so through inducements to farmers and traders or through government ownership. Which course would be followed would depend upon a calculation of financial and political costs at the time.

QUESTION ON PARTICIPANT COMMITMENT

The last two elements, the guidelines or rules for the management of reserves and the rights and obligations of participants, together raise the question which is basic to such an agreement—to what degree will it commit its participants?

The choice is one between an agreement which sets goals with specific actions to be decided through consultation and carried out by consensus, or one which establishes binding commitments, based on a balance between the clearly defined rights and obligations of its participants.

Each of these would have its advantages and disadvantages. The first, relying on the best efforts of its participants to build up, hold and release reserve stocks, would provide greater flexibility, but is likely to be less certain and effective in its operation. An agreement based on binding commitments would offer the benefits of more predictable responses to a given situation and thus greater security, which is particularly important to importing countries, but it could also prove to be too rigid.

The question of rights and obligations becomes more important as commitments under the agreement are strengthened. The basic obligations under any agreement are clear; all participants would accumulate and hold reserves, and under specific conditions, release these reserves. Exporters would be the first to benefit, since in periods of relative oversupply other participants would help absorb surpluses to build up their reserves. Importers would take part primarily in expectation of receiving corresponding benefits in periods of shortage, as the reserves held by exporters are then released. This raises the further question, however, of whether those importers which previously complied with their obligations under the agreement should be given some form of priority access to these reserves as they are released. While this would imply the use by exporters of some means of allocating these supplies, such provisions may well be required to ensure the participation of importing countries in any agreement, and to avoid free-riding.

The issues involved are complex, and there still exists serious differences of opinion here and abroad regarding them. But the necessary decisions are now approaching and must in all probability be made in the next two months.

Let me sum up with a description of major provisions we believe should be included in a grain reserves agreement:

All participants would set aside agreed quantities of grain in addition to normal working stocks.

There would be a specified global target level for these reserve stocks; the agreement would not foster unlimited accumulation of surpluses.

These reserves would be released only under specified conditions, conditions which will have been previously agreed to constitute a serious shortage, and this release would take place under agreed guidelines or rules in order to minimize adverse effects on world markets.

The agreement would otherwise attempt to avoid or minimize interference with normal market operations.

I have attempted to explain the reasoning behind the U.S. proposal for a reserves agreement, describe some of the issues involved and indicate what we would expect such an agreement to do.

OUR WESTERN HEMISPHERE FRIENDS

Mr. BAYH. Mr. President, when the Senate Finance Committee considered the Trade Reform Act of 1974, it inserted

a section which restricted the extension of zero-tariff preferences under title V of the act to any member of the Organization of Petroleum Exporting Countries that withholds supplies of vital commodities and raises the price to an unreasonable level so as to cause serious disruption of the world economy. This provision was sustained in conference and now comprises section 502 (a) and (b) of the act.

I share with my colleagues a deep concern over rewarding those nations which participated in the oil embargo against the United States and the Netherlands in 1974. While I continue to feel that we cannot reward those nations which have participated in economic embargos against this country, I regret that in this instance the blanket restriction has inadvertantly punished many of our OPEC friends—Venezuela, Ecuador, Iran, Nigeria and Indonesia—that did not participate in the oil embargo of 1974. Not only did these nations not participate in the oil embargo, Venezuela substantially increased production and supplies of oil to the United States during that time.

Unfortunately, the failure of the Congress to take immediate action to rectify this injustice has led many Latin American countries to question the true intent of the United States regarding our southern neighbors. This past week in Washington, the Conference of Latin American Ministers made the OPEC restriction a major part of their agenda.

Since trade legislation and modifications thereto must originate in the House of Representatives, those of us in the Senate who are concerned with amending the OPEC restriction are forced to wait for House action. However, there has been legislation introduced in the Senate and I am pleased to be a cosponsor of S. 394, a bill introduced by Senator BENTSEN, which would redress the injustices done through the blanket OPEC restriction.

I hope that the House of Representatives will move expeditiously on amending the trade bill so that we can begin to reestablish our deteriorating relations with our Latin American neighbors and friends. At a time when our relations in Southeast Asia and the Middle East are strained at best, we must make every effort to support our neighbors and friends here in this hemisphere.

SOCIAL SECURITY

Mr. KENNEDY. Mr. President, Robert M. Ball served as Commissioner of the Social Security Administration for nearly 11 years after working within the Administration since 1939.

His views on the present status of the Administration and on its future represent the thoughtful insight of a thoroughly knowledgeable expert in the fiield.

I urge my colleagues to examine the interview of Robert Ball in the Washington Star because I believe it provides an excellent summary of the problems and potentials facing the Social Security Administration.

I ask unanimous consent that the interview be printed in the RECORD.

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

Q AND A: BALL ON TAX FOR SOCIAL SECURITY AID

Robert M. Ball has been involved with the Social Security Administration since he went to work in 1939 as a petty official in the Newark district office. He served as commissioner of the system from 1962 to 1973, and is now scholar-in-residence at the Institute of Medicine of the National Academy of Sciences. Ball was interviewed by Washington Star Staff Writer Ned Scharff.

QUESTION. *Many observers of the Social Security system are saying that it's in trouble financially. Do you think Social Security can continue to function as it does now?*

BALL. Well, the system does need more financing. I think the best way to look at this is in two parts. There is a short-range financing problem which grows out of the present economic situation. And then in the next century there is the possibility of a problem in Social Security financing which grows out of an expected change in the age composition of the population. I have no doubt the promises of Social Security will be met by the U.S. Government, but, as I say, some additional financing will undoubtedly be needed.

Q. *Where do you think that should come from?*

A. Well, it would not be good economics to raise Social Scurity contributions, taxes or premiums, at this time, but obviously you can't let the deficits go on. It is very important that the income to the program be raised so that it is in excess of the benefit payments that have to be made just as soon as an economic turnaround. I would not do it until the economy is on the upbeat. But when that happens, I would propose that the maximum amount on which people pay and the maximum which is credited to their benefits be raised to $24,000 a year.

Q. *That is you would advocate an increase in the tax base rather than in the tax rate itself?*

A. The tax rate which falls on everybody under Social Security is now 5.85% and that is a fairly sizable rate if that applies to workers of all levels. If you increase the base it applies only to 15% of workers under the system who have the highest earnings. In other words, 85% of workers today have all their earnings counted toward those security benefits and they pay on those earnings. The 15% at the upper end do not.

Q. *Would you agree that it makes it a regressive tax that falls hardest on low income earners?*

A. I don't think really it's correct to look at Social Security finance primarily as a tax. It's the purchase of retirement insurance, disability insurance and of life insurance. People are paying for a protection and what they pay is marked for the purpose of Social Security. Nof if you look at it as a complete system, then it is not regressive because the benefit amounts that people get are weighted in favor of the lower wages. If you look at both of what you pay in and what you take out the lower paid wage earner has a break as compared to the high-paid wage earner.

Q. *But generally, a man or a woman retiring now on nothing other than Social Security benefits would find it pretty difficult to lead a decent life?*

A. No, I don't think so. I think the way to judge a retirement system like Social Security or Federal Civil Service or private pension is the relationship of the payment made to the recent earnings that the individual has been getting. And for people retiring today under Social Security, the worker who has been earning the federal minimum wage, he and his wife together if he retires at 65, would be getting benefits at about 80 percent of what he had been earning in the years just before retiring. The worker earning the amount that the average male worker would get, he and his wife together would be getting about two-thirds of what they had been earning just before retiring.

Q. *When the system was introduced in 1935, it was designed not only to provide a minimal income for the elderly but at the same time to get elderly people out of the job market to help clear the way for younger people. Is that fair or wise?*

A. I feel very strongly that there should be increased opportunities for older people to work. I think that it ought to be up to the individual whether 65 is the right age for him to stop paid employment and start something else, volunteer work and other activities or whether he wants to continue in a regular or part-time job. However, I do not believe that a retirement system should be paying people who aren't retired any more than a disability insurance system should be paying people who aren't disabled. And I think it would be a great mistake to turn the Social Security system into what the insurance people call an "annuity program," which just gives you the benefit because you reached age 65, say. Up till now the philosophy has been that it's retirement insurance designed to partly make up for the income you lose when you retire. So you need some sort of a test of when a person is retired and the present provision in Social Security seems to me reasonably satisfactory.

Q. *But as far as retirement itself goes, do you think the government is proper in making this a basic humanitarian goal?*

A. I think at age 65 what I'd like to see is the opportunity for people to chose. I'm against forced retirement. I think the trend toward compulsory retirement in industry is undesirable, particularly if we take note of the problem of a high ratio of older people to 20 to 64-year-olds in the next century. The more older people who have the opportunity to work, the less economic burden therefore they would be. At the same time, I think if individuals are willing to accept a somewhat lower level of living as they do under well-designed retirement systems, then I think that's acceptable. I think what we want to do is enlarge choices.

Q. *The present Social Security Advisory Council suggests that part of the burden in the next few years be paid for out of the general treasury. How do you feel about that?*

A. I'm very much against the specific proposal made by the advisory council. What they suggested was that the Medicare program, the health insurance program providing hospitalization for older people and disabled people, be supported 100 percent out of general revenue, not be a contributory system at all. The reason I'm opposed to that is that I believe that if Medicare was supported entirely out of general revenues there would be a good possibility that in the future that an income test might be introduced. People might say, in effect, well if this is all being paid for from general revenues why should the protection be given to people who could take care of it on their own. You'd soon find I think that instead of an insurance program, like Medicare now is, you'd have turned it into a relief program. Now on the larger question of general revenues for the Social Security program as a whole I am not opposed to that if it's kept to a subordinate part of the financing for the long run. I see no need to introduce general revenues at this point. I'd be for raising the maximum earnings base to $24,000 which I think helps on the benefits side as well as on the financing, and that would carry the program for many many years into the future. If in the next century we find that the commitments of the present program still need additional financing at that

time, I would be personally in favor of the gradual introduction of some general revenue financing, both on the cash program and on the health insurance. Not putting it all one way or the other.

Q. *One of the most difficult questions about the future of the system is that as we become an aging society with fewer workers proportionate to the number of retirees in our society, the current level of benefits may well be impossible to keep up some years from now without severely damaging the economy. How do you feel about this?*

A. I don't agree with that at all. It seems to me that we are now into the question of the long range financing of Social Security and I think the problem your raising really applies to an estimated or projected situation that begins about 2010. Assuming an accumulation of low fertility rates, by about 2010 the people of working age, those between 20 and 65, in absolute numbers will come to a halt and the numbers of people above 65 greatly increases for a period, there between 2010 and 2030. Now that just taken in itself would create an additional economic burden on the people of working age, and this is to aside from Social Security. This would be true if you were to support an entire elderly population entirely out of private pension plans or if you were going to do it out of relief or assistance or if you were going to do it all from the wages of their children. That kind of a shift in the larger number of retired people vs. people of working age would apply to any matter. But the point I want to emphasize is that exactly the same in birth rate that has brought what we have just described also results in a lot fewer children and so that the people of working age, the 20–64 group, we have no more dependents to support in an economic sense than they do today. As a matter of fact, they have less. There are fewer combined dependents, that is those under 20 plus the group over 65 as a ratio to those of 20–64 than is true right now today.

Q. *So it would certainly be easier for them to prepare for retirement?*

A. Yes. Maybe the long-range problem could be described as: how do we translate the reduced burden of caring for and raising children on the willingness of people of working age to pay higher rates for retirement benefits.

THE STATE OF THE ECONOMY

Mr. CRANSTON. Mr. President, the primary goal of Government policy must be to get people back to work and to restore a healthy economy.

More than 9 million Americans are out of work and looking for jobs.

Others have become so discouraged they have stopped looking.

The gross national product continued to decline in the first quarter of 1975 at an all-time record rate, and consumer spending—which accounts for two-thirds of our GNP—is in the midst of its only decline since World War II. The construction, automotive, and textile industries are especially hard hit sectors of the economy. Although the double-digit inflation which plagued our economy in 1974 has abated somewhat in recent months, the incomes of many employees and retirees have not kept pace with price increases. Business investment also declined after mid-1974, dropping at an annual rate of 15 percent in only 6 months.

For most of 1975, administration policies focused on reducing Federal spending as a means of fighting inflation and ignored the oncoming recession. Meanwhile, the deficit soared—not because of any new and unnecessary spending programs, but rather because of deteriorating economic conditions. Diminished personal and corporate income greatly reduced tax receipts. At the same time, unemployment assistance and welfare payments to those hurt by the recession greatly increased. Each 1-percent increase in the unemployment rate over 4 percent—the so-called "full employment" level—reduces Federal revenues by approximately $16 billion. At the present unemployment rate of almost 9 percent, almost $80 billion is lost to the Treasury.

In my Senate service on the Banking, Labor and Public Welfare, and Budget Committees. I am giviing my highest priority to adoption of policies to get industrial plants back into production and people back to work. In my opinion, recovery will not flow from any single policy or simple solution, but rather from a combination of fiscal and monetary policy decisions which gain the confidence of the American people.

In March, Chairman Arthur Burns of the Federal Reserve Board, testified before the Senate Budget Committee that—

> The most urgent need at the present time is to cushion the recession.

And Secretary of the Treasury William Simon told the committee that—

> . . . we must end the downward slide in the economy, putting millions of Americans back to work.

I concur wholeheartedly with this statement of their views and am working to make sure that the administration and the Federal Reserve Board implement these policies plus other programs enacted by Congress to speed recovery. At the same time, I believe we must pay careful attention to the long-range implications of our decisions to avoid spurring future inflation of prices or interest rates, thereby eating up our hard-won gains.

THE NEED FOR FISCAL STIMULUS

Tax relief: Almost all economists and representatives of labor and industry agree that tax relief is an essential ingredient of any program to stimulate the economy. In March, Congress passed and the President signed, legislation providing tax cuts and other benefits amounting to $22.8 billion. One of the most imporant features of the bill—which I strongly supported—is that it will put money quickly into the hands of the buying public. The rebate of between $100 and $200 for taxpayers is designed primarily for those with incomes below $20,000 per year—those hardest hit by rising prices and unemployment. The bill also provides a $50 payment to social security and welfare recipients and a cash payment to low-income people who owe no tax.

Incentives to industry: To stimulate business, two corporate tax reductions were included in the Tax Reduction Act. One is a temporary 2-year increase in the investment tax credit to 10 percent for all corporations. Previously, rates were set at 7 percent for most companies and 4 percent for utilities. The temporary nature of this tax reduction is intended to encourage business to accelerate its investment plans, or at least to avoid postponing them. Another provision of the bill reduced taxes on the first $50,000 of corporate earnings by increasing the corporate surtax exemption from $25,000 to $50,000 and by assessing a 20-percent rate on the first $25,000 and a 22-percent rate on the next $25,000. On corporate earnings above $50,000, the present combined tax rate of 48 percent still applies. I believe these provisions are essential if industry is to try to maintain existing jobs and be encouraged to create new ones.

Housing: By February 1975, the average annual housing starts had fallen below 1 million from 2.36 million in 1972. In the construction industry alone, approximately 18 percent of the workforce is currenty unemployed. To reduce the inventories of new housing and to speed an upturn in the housing industry, the Tax Reduction Act provided a 5-percent tax credit, up to $2,000, on the purchase of a new house which is a principal place of residence. The home must have been started by March 25, 1975; must be purchased between March 12 and December 31, 1975; and must not have been listed previously at a lower price. Recent real estate sales indicate this tax credit is already helping the home building industry.

In my opinion, however, a full recovery in housing will ultimately depend in great part on monetary policy and the extent to which restraints are eased so that builders and buyers can obtain financing at affordable rates. To facilitate such policy, I cosponsored legislation requiring the Federal Reserve Board to report to Congress the actions it is contemplating in the coming months to insure an adequate money supply.

Unemployment: Until the economy recovers, those for whom no jobs exist must receive adequate unemployment benefits. As the unemployment rate in the private sector continues to rise, public employment projects must be expanded. Over the years, I have worked hard to develop manpower and employment legislation to achieve a real full-employment economy. I was a principal architect of the 1971 Emergency Employment Act, the Comprehensive Employment and Training Act of 1973, and the Emergency Jobs and Unemployment Assistance Act of 1974, and worked hard to provide adequate funding for these programs. I pledge to continue my efforts in these areas.

Although the Congress and the administration now agree that public service employment is an important part of the antirecession program, at issue are the size, nature, and duration of the program. I am convinced that there is a great need for an expanded, ongoing public service employment program to help stop the immediate spiral of recession and joblessness and insure against future, continuing high unemployment. I am sponsoring legislation which would increase substantially the number of public service jobs.

CONTROL OF THE FEDERAL BUDGET: THE KEY TO ECONOMIC STABILITY

The President's budget primarily reflects the administration's view of the Federal Government's role in our economy and society and in world affairs. However, the Constitution gives the "power of the purse" to Congress. In recent years, Congress realized that its procedures were inadequate to give careful scrutiny to the President's proposals. Instead, Congress annually voted on 13 separate spending bills plus numerous "supplemental" requests, without examining their total impact.

An important step forward was the enactment in 1974 of the Congressional Budget and Impoundment Control Act. This major governmental reform measure enables Congress to exercise more fiscal responsibility in determining the way the Federal Government collects and spends taxpayers' money. While the new budget procedures will not be fully implemented until 1976, Congress decided to put as much of this process as possible in place this year. The newly created Budget Committees of each house heard testimony from numerous Federal agency heads, spokesmen for the private sector and top economists. By April 15 each presented an alternative Federal budget to the Congress.

It is apparent that the budget cannot be balanced this year. The recession-induced falloff in Federal revenues, plus extra expenditures necessary to compensate the unemployed, create the imbalance. Raising taxes or cutting Federal services would make the situation worse. The Secretary of the Treasury, the Chairman of the Council of Economic Advisers, the Director of the Office of Management and Budget, and other advisers to the President, all testified before the Senate Budget Committee that a deficit of $53 billion could not be avoided. The President himself later adjusted his projected deficit to $60 billion, and additional spending requests from the administration and continuing high unemployment suggest that even that target is optimistic at this time. In addition, our review of the President's budget turned up several instances where anticipated revenues had been overstated, or expenditures understated, making the President's deficit appear smaller than it really was. In the long run, Federal expenditures must be cut—and/or taxes increased—to bring the budget into balance when the economy is at full employment. Through my assignment to the Budget Committee, I will work to accomplish that goal, but it cannot be done during a year when production is at two-thirds of the Nation's capacity.

In my opinion, there are a number of areas where Federal spending can be reduced. This is particularly true of the administration's request for more than $100 billion for the Defense Establishment. Many of these expenditures support unnecessary overseas military enterprises, bolster dictatorial regimes whose goals and policies are contrary to American principles, and detract from our ability to take care of our own citizens. I believe these outlays can be reduced substantially without jeopardizing in the least our national security. I will continue my efforts to bring these and other Federal expenditures under control by scrutinizing each spending request, by insisting on greater efficiency in Government programs, and by urging the executive branch to take steps to eliminate waste in Government operations.

In the final analysis, however, I believe that full employment and increased productivity are the keys to restoring a balanced budget. Not only do they increase the gross national product and provide new revenues to the Treasury; they also reduce the need for Government spending on welfare programs, food stamps, and unemployment compensation.

TAX REVISION

Next year the Treasury will not collect approximately $90 billion in potential revenues because of various exemptions, deductions, and credits. Many of these tax provisions were enacted years ago, and their continuing usefulness is questionable. Many enable some Americans to escape paying their fair share of taxes.

While the new Congressional Budget Act requires Congress to review these provisions in coming years, we have already taken steps in that direction. The recent tax cut bill, for example, added some $2 billion to Federal revenues by eliminating the oil depletion allowance for major producers and by altering the foreign tax credit for oil companies. I am continuing to work to review tax expenditures to make sure that our tax system is equitable.

ENERGY

It is clear that we cannot resolve our economic ills until we solve the energy problem. In the short term, we must reduce substantially our consumption of energy and insure that existing supplies of gasoline and other fuels are fairly distributed.

Last January, the President proposed a program of tariffs and taxes on crude oil that was designed to cut consumption by 1 million barrels of oil a day. Congressional analyses of this Presidential program showed increased per family fuel costs as high as $345—a stiff increase for many families already feeling the sharp pinch of inflation and recession. Congress responded by passing a resolution calling upon the President to postpone the imposition of his tariffs for 90 days, so that Congress could begin to solve the very complex and difficult questions that must precede the implementation of a national energy program.

The House Ways and Means Committee is now progressing toward completion of action the Energy Conservation and Conversion Act of 1975. Many other committees in both the House and the Senate are deliberating other energy bills. In recognition of this progress, the President recently postponed for an additional 90 days the date for imposing a second dollar of tariff on crude oil.

I believe we must develop a comprehensive national energy policy to provide an orderly development of our domestic energy resources within the framework of an effective program of energy conservation. We must insure against the needless and premature exploitation of our offshore oil and gas resources, at least until we have a national energy policy which has weighed the cost and the benefits of many alternative sources of energy and established a rational priority for their development. A top priority should be the expenditure of the necessary funds for the research and development of new sources of energy, such as solar and geothermal, coal gasification processes, nuclear fusion, and other alternatives. In the 93d Congress, in the pursuit of these objectives, I sponsored legislation to authorize a 5-year demonstration program to develop practical solar heating and cooling systems, and I supported legislation for a 10-year energy research and development program. These are both now law.

FOOD

Unchecked world population growth, a fertilizer shortage, bad weather, and misguided policies of the administration have resulted in sharply rising food prices. In 1973 and 1974, food price increases contributed substantially to the total increase in the cost of living. They have had a devastating effect both on people living on fixed incomes and on low- and middle-income families.

In my opinion, the Government must monitor food exports to make sure that U.S. supplies are adequate and domestic food prices do not increase as a result of excessive exports. While insuring the farmer a fair return, we must increase production. The Government must also take responsibility for developing and managing food reserves.

The wild speculation that we witnessed in recent years in the commodity futures markets will hopefully be checked by the new Commodity Futures Trading Commission, now chaired by former California Assemblyman William T. Bagley and created by legislation Senator HUMPHREY and I cosponsored in the 93d Congress. I wholeheartedly support efforts by the Department of Justice to determine whether price fixing and other unfair and illegal competitive practices have occurred in the food processing and distributing industries.

PRODUCTIVITY

To encourage productivity and competition, I support efforts by the Congress and the administration to review all government regulatory activities, purchasing practices, and allocation and price support programs which may be disrupting the productivity of our economic system. I also support vigorous enforcement of antitrust laws and stiff penalties for offenders.

CONTROLS

Alternative proposals for controls on wages and prices are being discussed. I much prefer self-regulation if it can be made to work. During the Nixon administration's imposition of wage and price controls, we experienced a wave of shortages, suffered economic hardships, and observed serious dislocations in our economy. As a result, I concluded that controls neither helped curb inflation nor strengthened our economy.

The Senate Banking Committee, of

which I am a member, recently held hearings on proposed legislation to strengthen the role of the Council on Wage and Price Stability. This bill would have given the Council extensive new powers—including the authority to postpone wage and price increases for a period of up to 60 days. At the conclusion of the hearing, however, the committee rejected this bill. Instead, it agreed to report legislation which would simply extend the life of the Council for 2 years and increase its authorization for appropriations. I supported the committee's decision to report the substitute legislation, because I can presently see no reason to repeat our unfortunate experience with selectively applied controls.

Revitalizing our economy and getting the people back to work will continue to have my highest priority. I am giving my most critical view to the wide range of proposals being discussed, and I am grateful to the thousands of Californians who have assisted me with their thoughts and comments.

PRESIDENT BOK'S REPORT ON BETTER EDUCATION OF PUBLIC SERVANTS

Mr. KENNEDY. Mr. President, in his recent annual president's report, Derek Bok, the president of Harvard University, discussed the need for more effective university programs to educate public servants.

President Bok is in the vanguard of those who are encouraging the Nation's universities to put greater emphasis upon public service training programs. Recognizing that the majority of our public servants have been trained as specialists in the past, he suggests that few are adequately qualified to handle the complexities of modern public administration. By denying it the identity of an independent profession, the American educational system has shortchanged public service. The solution President Bok advocates "is nothing less than the education of a new profession."

Mr. Bok's perceptive observations and conclusions deserve serious consideration. The Nation has an obligation to provide the best possible education for those who will serve in the public sector.

Mr. President, I believe that President Bok's thoughtful report will be of interest to all of us concerned about the quality of public service, 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:

EXCERPTS FROM THE PRESIDENT'S REPORT TO THE MEMBERS OF THE BOARD OF OVERSEERS OF HARVARD UNIVERSITY, JANUARY 13, 1975

Ladies and Gentlemen, I have the honor to present my annual report for 1973–74. I have come to regard this occasion as an opportunity to explore an important aspect of education at Harvard. In the wake of grave public scandals followed by severe recession and unemployment, opinion surveys reveal an alarming disaffection over the quality of government in this country. Under these circumstances, it is timely to consider what universities can contribute to improve the level of public service and, specifically, what Harvard can do to prepare students for public careers.

THE PROBLEMS OF PUBLIC SERVICE

The past decade has undermined public confidence in the capacity of government to cope with the nation's problems. In the early sixties, many Americans were inspired by the thought that bold federal programs could make massive strides toward the solution of poverty, urban decay, racial tensions, unemployment, the arms race, and other national issues. After ten years, and many billions of dollars, the problems are still unresolved, and the public has experienced a cruel and divisive war, the spectacle of corruption in the highest reaches of government, and the growth of inflation and depression unmatched since the Great Depression.

This dolorous record has produced the usual list of scapegoats. Populists blame big business; editorial writers deplore the lack of "leadership" in high places; public officials blame the media; and masses of ordinary people have simply turned their backs on politicians and government institutions. None of these diagnoses seems adequate to explain our predicament, and it will surely avail us nothing to ignore the political process. There are many reasons of a more substantial kind that help account for our frustrations. Although I will not attempt to describe them all, some of the factors involved are worth mentioning, because they suggest new ways by which our universities can contribute to the nation's ability to meet its problems more successfully.

To begin with, it is clear that the process of government has become much larger and more complex than it was several generations ago. Over the past few decades, a growing number of new values and new interests have required attention by the government. Under the pressures of the Great Depression, Congress intervened to protect a long list of interests asserted by the unemployed, the poor, the aged, the unorganized worker, the farmer, the investor and many more. In recent years, new interests have arisen, such as those pertaining to the environment, the needs of minority groups and women, the sick, and the urban dweller. These needs have resulted in the proliferation of new laws, new regulations, and new government agencies. They have also greatly enlarged the number of interests that public officials must take into account in designing new government programs.

These developments have made the task of government more difficult in several respects. *First*, it is much harder to develop programs that can respond to the legitimate needs of one group without impinging on other interests that the government considers important; this is particularly true in an age when social science has so enlarged our ability to perceive the subtler ramifications of government intervention. *Second*, as the government grows larger, its officials can more easily lose sight of what happens to the human beings whose lives are affected by public programs; as the bureaucracy becomes more specialized, it is more difficult for any single official to feel personally responsible for any harm that may befall individual citizens. *Third*, it is now a much more complicated task to coordinate the activities of many different agencies to achieve a coherent effort to resolve public problems in a manner consistent with the intentions of elected officials. This problem has been aggravated by the tendency of the federal government to rely on state and local governments and on a mixture of private and quasi-public institutions to help effectuate public programs. With government becoming so large and complex, it is more difficult to administer individual agencies in an efficient manner.

These problems are most pronounced in the federal government because of its overwhelming size and range of responsibilities. But the same difficulties have arisen in state and local government and in large nonprofit institutions as well. For example, the size and complexity of school systems have brought home the need for much more sophisticated planning and administration. Much the same has occurred in the field of health with the development of larger systems for delivering medical care.

These complications have already produced significant changes in staffing within the government and nonprofit sector. Public agencies and nonprofit institutions have begun to accumulate substantial numbers of systems analysts, statisticians, economists, and personnel experts. But glaring inadequacies remain in the nature and qualifications of public servants, and these shortcomings hamper the ability of public institutions to meet their new responsibilities in a satisfactory way.

The federal career service has for several decades been heavily staffed by specialists: lawyers in the Justice Department, physicians in the Public Health Service, engineers in the Department of Transportation, economists and manpower specialists in the Labor Department, and so forth. Although the resulting levels of education are high, two critical ingredients are missing. To begin with, there are comparatively few civil servants with the general skills required to take the work of many specialists and transform it into coherent plans and programs to deal with major public problems. In addition, only a minority of civil servants have acquired any serious training in administering complex organizations.

The principal method for correcting these deficiencies has been to call upon the services of political appointees for key government positions. Lawyers and businessmen have been the typical candidates to play these roles, and many of them have been able persons with impressive experience in the private sector. Yet they have often proved inadequate to meet all of the demands of modern government.

Lawyers generally lack experience in administration, and this defect becomes increasingly critical as government agencies grow in size and complexity. Moreover, the attorney's stock in trade is a highly disciplined common sense in attacking problems, and this capacity alone will not suffice for comprehending the more sophisticated analytic techniques of computer simulation, systems analysis, statistical evaluation and the like that are increasingly used in the planning and evaluation of government programs. As a result, lawyers could well become a declining breed in the upper echelons of government, and those that remain will run the risk of becoming captives of staff reports which grow increasingly difficult to comprehend.

Businessmen are more familiar with the processes of planning and administration in large organizations. Nevertheless, their background does not extend to all the problems of modern government. For one thing, they have seldom had more experience in dealing with the numerous and often intangible goals that characterize public programs. It is one thing to pursue objectives such as profits and market shares and quite another to work in government where the most important goals are often impossible to quantify. Moreover, the experience of the business executive in private, hierarchical organizations does not necessarily prepare him to take account of the political process and the interests of different constituencies through which important government policies must be negotiated.

The problems just described are also present in state and local government. But they are often compounded by a shortage of able, qualified personnel that is the legacy

of many generations of inadequate salaries, insufficient prestige, and excessive political patronage.

As for our large, nonprofit institutions, their leadership has traditionally come from the special fields which these organizations serve. Clinics have been run by doctors, universities by professors, and museums by art historians. In a simpler time, this tradition worked well enough. But when clinics evolve into massive prepared health plans and universities assume huge tasks of government research and community service, problems arise that demand the attention of persons with a broader training in managing complex institutions. These deficiencies are often masked for many years while prosperity reigns, but financial hardship eventually exposes the need for better planning and administration.

THE NEED FOR PROFESSIONAL TRAINING FOR PUBLIC SERVICE

In the face of these problems, universities have a major opportunity and responsibility to set about the task of training a corps of able people to occupy influential positions in public life. What is needed is nothing less than the education of a new profession. The profession may include persons elected to public office, individuals appointed to executive positions, and career civil servants promoted through the ranks. They may serve in the legislature, the executive branch or in large nonprofit institutions. But all will share the common experience of holding important positions of responsibility involving planning, policymaking and administration.

In order to create appropriate educational programs, one must first examine the field of public service to discover when and how the University can reach those individuals whom it seeks to train. This is no easy matter, for there exists no single, coherent profession comparable to law, medicine or even business. Indeed, it is this fact above all that explains the persistent failure to create strong schools of public administration. Elected officials come from many backgrounds. The highest positions in the executive branch are chiefly held by short-term political appointees recruited from a variety of private careers. Key positions in career civil services are generally occupied by specialists who entered government service as agronomists, doctors, economists, engineers, and scientists. Leadership posts in nonprofit organizations are usually taken from the professions that these organizations serve. In short, key administrators and policymakers are drawn from such a variety of professional groups that it is difficult to devise an educational program that can reach a substantial proportion of those who will eventually play important public roles.

Despite these problems, there are tendencies at work in public employment that make it possible to discuss new ways of equipping substantial groups of people with the general talents for policy development and administration that public service badly needs.

First, there are growing employment opportunities for young staff analysts equipped with a broad variety of skills for understanding complex public problems and recommending policy programs. The Office of Management and Budget, the staffs of cabinet officers and congressmen, and their counterparts at state and local levels are all illustrative.

Second, it seems likely that the Civil Service will gradually reform its criteria for high-level career positions to place more emphasis on broad administrative abilities rather than demonstrated competence in a particular professional specialty. This suggestion was embodied in the "Higher Civil Service" proposal in the Truman administration and reaffirmed in the second Hoover commission report of 1955. It was implemented partially in President Johnson's Executive Assignment Plan and was advanced last year in President Nixon's proposals for a new Executive Personnel system. Changes of this kind would offer much greater opportunities for advancement for the broadly trained staff analysts described in the preceding paragraph. They would also provide a strong impetus for promising specialists to enroll in mid-career training programs to broaden their skills and knowledge and thereby qualify for higher positions.

Third, the pressures of complexity, public accountability and financial stringency are rapidly creating a demand in a number of fields outside the federal government for persons with more sophisticated skills in policy analysis and administration. These tendencies are clearly apparent in fields as diverse as city planning and management, educational administration and the management of complex systems of health care. These fields are more or less self-contained in the sense that individuals are likely to spend their entire career in health or education or urban affairs. Hence, there is an opportunity for preprofessional and mid-career programs that combine general training in management and planning with special knowledge in the particular field.

This brief review suggests that it is possible to attract large numbers of students to educational programs that will prepare them for important policy and administrative roles. But the public sector remains sufficiently disorderly and varied in its needs that it is scarcely possible to consider the creation of a single professional program along the lines of a faculty of medicine or law. Many key policymakers and administrators will continue to be drawn from a diverse group of specialists who may never have contemplated a career in public service at the time they graduated from college. As a result, mid-career programs will be needed for more experienced persons without previous training in public management who find themselves moving from specialist roles to positions of broader responsibility. In addition, since there is a strong demand for broadly trained administrators in relatively self-contained professions such as health, education, and urban planning, similar programs must be devised in the other graduate schools that serve these professions. Finally, since careers in public service remain fragmented and uncertain, especially for political appointees and elective officials, ample room must be left for students who wish to hedge their bets by combining an education for public responsibility with a law or business degree.

In short, professional education for the public sector is a task that cannot be left to a single graduate school. It requires the participation of a number of different faculties within the University. And yet, our surveys of alumni in a variety of fields suggest that there is a common body of knowledge and general skills that can contribute to the education of policy analysts and administrators whether they seek their training in a school of government, a faculty of education, a department of city planning, or a school of public health. It is to this basic core of instruction that we must now turn.

THE BASIC CURRICULUM

The basic knowledge that public leaders need to carry out their responsibilities is very much a seamless web. For simplicity's sake, however, it is possible to distinguish among three major forms of knowledge: a familiarity with the more sophisticated analytic methods that we increasingly used in the planning and evaluation of public programs; a knowledge of methods of organization and management together with an understanding of the political processes that influence government action; and a sensitivity to the problems of ethics and competing values that inhere in all forms of public activity.

Analytic Skills: During the past two decades, government agencies and other large institutions have made increasing use of more sophisticated tools of analysis derived, for the most part, from the disciplines of economics, mathematics and statistics. These methods were widely publicized a decade ago through the heavy use of technical analysis in the Department of Defense under the stewardship of Robert McNamara. Because the techniques have often been applied without sufficient judgment and discrimination, they have attracted their fair share of criticism. Yet the use of methods such as program budgeting, cost-benefit analysis and simulation models has continued to spread beyond the Defense Department to other government agencies and nonprofit institutions. As a result, even the critics must acknowledge that key policymakers should be acquainted with these methods if only to appreciate their pitfalls and avoid becoming captive to elaborate staff studies which they cannot adequately comprehend.

For these reasons, it is important to include an exposure to economics in our basic core. Needless to say, no professional program could hope to train fully qualified economists, or there would be room in the curriculum for little else. But it should be possible to familiarize students with a basic understanding of the relationship among economic variables and the subtler ways in which they influence one another. In particular, such training should enable the student to analyze the role of incentives in influencing the behavior of individuals and institutions, whether the incentives take the form of taxes, interest rates, tariff barriers, profits, licensing arrangements, or public subsidies.

An exposure to statistics can likewise provide the student with skills that are applicable to a wide variety of public programs. The use of survey and sampling techniques can help policymakers obtain more reliable knowledge in evaluating public problems and recommending solutions. Statistics can also provide greater sophistication in making predictive judgments and assessing risks. Familiarity with computer techniques can make available a variety of methods for organizing and utilizing unwieldy masses of data. Even more important, statistics can provide the essential knowledge required to evaluate public programs to determine how effective they are in carrying out their intended goals.

With the help of statistics and economic theory, students can also study a variety of formal analytic methods that are widely employed in considering policy problems. Modeling techniques can simplify reality in ways that help in understanding the effects of government programs and estimating the effects of alternative actions. They can also assist the policymaker in choosing among alternatives to maximize his objectives. For example, the use of linear programming or decision theory can be applied to analyze allocation questions, such as how a political candidate should divide his time and funds, or whether off-shore drilling or building supertanker ports will increase the supply of oil without undue harm to our environment. In addition to these techniques, some attention may be given to methods of game theory, including bargaining and coalition theory, which can be used to analyze situations as diverse as military negotiations, legislative maneuvering or collective bargaining. Finally, students can learn the rudiments of cost-benefit analysis and thereby gain a more systematic approach to assessing the consequences of alternative policy choices.

It is important not to exaggerate the role of these formal techniques in the education of public servants. The professional program I envisage cannot hope to make anyone expert in the use of these analytic methods—although students are plainly free to proceed, if they choose, to acquire more spe-

cialized training in any of these areas. What the basic curriculum can achieve is nevertheless important.

It can develop a greater ability to break down complex public problems into a series of more manageable issues.

It can help students to appreciate a host of less obvious effects of government intervention and thus reduce the risk of overlooking secondary and tertiary consequences that often destroy the value of well-intentioned programs.

It can help the student to appreciate where the use of experts and sophisticated techniques can assist in the understanding of complex issues.

Finally, it can train students to be intelligent consumers of material based on advanced analytic techniques—to understand the findings and the methods employed and to appreciate their weaknesses and limitations as well as their strength. The importance of the latter point can scarcely be overestimated. There will always be a need for generalists who can evaluate public action against a wide range of human, social and political considerations. But generalists will not play this role effectively if they cannot understand the advice they receive from specialists and appreciate both its strengths and its limitations. If the past generation offers any guide, there is little doubt that increasing amounts of advise in the next generation will be based upon more complicated methods of analysis. Thus, the training of generalists demands an exposure to broadly applicable methods of policy analysis just as it demands appreciation of a variety of matters that transcend these formal techniques.

Methods of Administration and Implementation: During the 1960's, many observers of government were disillusioned by the repeated failure of innovative public programs to achieve their goals, especially the programs undertaken as part of President Johnson's vision of a "Great Society." Very often, what appeared to be bold and excellent ideas did not produce the promised results after they were enacted. This unhappy experience reveals a failure on the part of many government agencies to appreciate fully the political and administrative considerations that affect the implementation of public programs.

These difficulties are rooted in an earlier view of public affairs that separated the problem of policy analysis from the task of implementation and administration. Of course, the public administrator must be intimately concerned with the political force and the problems of management and organization that affect the carrying out of public programs. But the problems of implementation must not be viewed solely in this light but as an integral part of the policy-making process itself. If policy analysts are truly concerned with achieving results rather than creating elegant abstractions, they must consider the political and administrative factors that often determine the ultimate effects of different policy alternatives. For this reason, it would be most unwise to create separate educational programs for policy anayists and administrators. Just as the administrator must be concerned with policy analysis in order to exercise his discretion wisely, so also must the analyst take account of political and administrative factors in framing sound policy recommendations.

It is more difficult to convey an understanding of these matters than it is to teach the analytic methods previously described. But something of value can be learned, and experience suggests the folly of refusing to communicate whatever we know about these important topics. Part of the task is to acquaint the student with the political and bureaucratic forces that bear upon every phase of public activity—the legislative and judicial processes through which public programs must pass, the interests of community and consumer groups that are affected by public intervention, and the influence of other executive bodies that constrain and affect the behavior of a government agency. These factors are still too elusive to be treated in a precise and rigorous fashion. But it is possible to help students to take a more systematic inventory of the political and bureaucratic forces that influence policy decisions and condition their implementation. Through repeated case studies, it is also possible to convey a somewhat clearer sense of how these factors may actually affect the results of different public programs.

Another important area of knowledge relates to factors within an agency or institution that affect its ability to carry out desired policies. It is here, especially, that there is much to learn from the work of business schools, where issues of this kind have been explored more deeply than elsewhere. Students can be helped to diagnose recurring organizational problems and develop imaginative and pragmatic solutions. They can learn to appreciate whatever is known of interpersonal relations and the motivation of people in large organizations. They can come to understand the basic forms of influence and control within an organization, including methods of budgeting, accounting, information systems, and performance reviews.

Needless to say, there are limitations on the degree to which students can be prepared to deal with these matters. It is plainly impossible to acquaint students with more than a tiny fraction of the infinite variety of organizational forms which they may encounter in a field as broad as public service. At best, problems and materials may expose the student to only a few key processes and institutions, such as the U.S Civil Service, the federal budgetary procedure and the legislative processes of Congress. Notwithstanding these limitations, it is possible to conceive of a program that will convey something of genuine importance. For example, despite the variety of public institutions, it is possible to equip the student with an ability to ask a series of questions about an institution and its organization that will help to analyze its inner workings. In addition, it is possible to convey to students a basic understanding of some widely applicable principles of interpersonal relations, organizational structure, and financial control. At the very least it should be possible to help students to recognize many of the factors that affect the performance of a public institution and the measures that can be taken to increase its effectiveness.

Problems of Values and Ethics: The emphasis we have placed on analytic techniques and administrative skills may alarm some readers by suggesting technocratic training that does not speak to the central concerns of many people about the conduct of public officials. Clearly, important public decisions are not made by technique alone. In the end, the critical choices in public life involve such matters as the accountability of public servants to the people's will, the wisdom displayed in making choices among competing values, and the ethical principles that should govern the methods that policy-makers employ in carrying out their programs.

For example, one critical problem in public service is the degree to which administrative officials should follow their own conception of the public good or respect the dictates of some higher authority enanating from the executive branch, the legislature or the constitution. This is an issue of enormous importance to a democracy. In the words of Paul Appleby, "there is no single problem in public administration of moment equal to the reconciliation of the increasing dependence upon experts with an enduring democratic reality."

What can a university teach about these matters? Some understanding of the problem can be given by acquainting students with the constitutional system and conveying a sense of how courts and legislation limit the discretion of administrative officials. But troublesome issues will still remain. Under what circumstances should a legislator follow his own conscience when it conflicts with the views of his constituents? What should an administrator do when the spirit of the law seems to clash with the meaning of an executive order? How far can executive officials go in finding ambiguities in the legislative intent to justify their own conception of appropriate policy? Unfortunately, there are often no clear principles to resolve questions of this kind. But a well-designed curriculum can still make a contribution by fostering greater awareness of these issues and by encouraging students to consider them in a careful, rigorous fashion.

Much the same can be said of other pervasive ethical dilemmas that public servants often encounter in their careers. If official policies clash with personal conscience, at what point should a public servant resign? Is it ever proper to leak information to forestall government action with which one disagrees? Is it ever justifiable to lie or deceive? When is it appropriate to withhold information of interest to the public or to other agencies of government? Under what circumstances does a conflict of interest arise which requires withdrawal from a particular decision? Once again, there are no formulae to resolve these questions, and professors will accomplish little by giving formal lectures on the subject. But surely students will be better prepared for public life if they have learned to recognize these issues and have had an opportunity to read and discuss the best of the literature on the ethical considerations involved.

It is more difficult to know how students can be brought to recognize the full range of values that inhere in policy issues and to reconcile them wisely. In large part, this is an important task of a well-conceived liberal arts education. Subjects as diverse as anthropology, economics and psychology may help to overcome parochialism by awakening students to the values of different groups in the society. Literature can bring students to appreciate more vividly the concerns of individuals confronted by large, insensitive bureaucracies and organizations. History and biography can convey a wealth of vicarious human experience that can help develop a capacity to make judgments about recurring human dilemmas.

What, specifically, can a program in public policy add to this foundation? This effort is admittedly more difficult than the task of assembling a curriculum to teach analytic methods or problems of organization and administration. But several useful possibilities come to mind. First of all, a study of political philosophy may deepen a student's understanding of a number of fundamental values that repeatedly arise in making policy decisions. For example, the philosophic debate on paternalism illumines problems that arise in laws as diverse as rules compelling the use of seat belts or restrictions on homosexuality. Works on distributive justice provide a useful framework for considering a variety of problems in fields such as taxation and welfare.

A careful discussion of these issues can also help develop a more rigorous treatment of conflicts of value. Students can be encouraged to exercise greater precision in defining issues and terms, to frame their arguments and analogies more carefully, and to state their premises more exactly to transform what I. A. Richards describes as "premature ultimates"—"natural" rights or "justice" or "human dignity"—into more concrete descrip-

tions of the moral considerations involved. These habits of thought may not resolve fundamental conflicts in value but they will often help to narrow the area of disagreement and lay the groundwork for more intelligent discussion.

In addition to work in applied ethics, it is conceivable that courses could be designed using history or biography to give students greater insight into the process of resolving conflicting values. For example, historical materials can convey a sense of how policy issues evolve over long periods of time and how a multitude of factors influence the perception of these problems and affect the efforts of government to resolve them. In this way, historical examples can help to overcome the artificiality of policy problems adapted for class discussion in other courses. More important still, selected case studies can make students more sophisticated in the uses of history and protect them from the facile recourse to historical examples to resolve current policy issues. Our national experience is replete with the use of faulty analogies to episodes such as the capitulation at Munich or the guerrilla wars in Malaya, and much would be gained by warning students to avoid similar mistakes.

Beyond these elements of a curriculum in public policy and administration, there will be other subjects which arguably deserve inclusion. Some critics may urge a course in the history of public administration or a survey of government institutions which will provide students with a proper context for their other courses. Others may argue for more explicit attention to the role of law in order to convey to students a sense of fair process and an awareness of alternative methods of regulation and control through law. Nevertheless, the subjects I have outlined still strike me as the most widely applicable body of skills and knowledge for key policymakers and administrators.

It is also worth mentioning that a curriculum in public policy and administration will have to be adapted to fit the special needs of different educational programs. There may be room to study all the subjects I have mentioned in some detail in the course of preprofessional programs to prepare students for public life. On the other hand, mid-career programs are typically shorter in length with the result that careful choices must be made. In the usual case, mid-career programs will appeal to public servants who are specialists but expect to rise to positions of broad administrative responsibility. For such persons, courses in analytic methods may need to do little more than provide an awareness of available techniques and a rudimentary capacity to understand reports making use of these methods. The greater emphasis should be placed on the problems of administration and implementation that participants will confront upon assuming larger responsibilities. Still further adjustments may be necessary in programs designed for specialized areas of public service, such as health or education. In programs of this kind, it will be best to adapt the materials so that cases and problems are drawn from situations within the special area in question. In addition, the preprofessional programs for these areas will have to combine material in policy analysis and administration with adequate substantive knowledge of the field, perhaps by creating joint-degree programs with other professional schools.

PROBLEMS OF IMPLEMENTATION

In sketching this outline of a basic curriculum, I do not mean to ignore the formidable difficulties that will arise in actually creating a useful academic program. Much time and energy will be needed to develop adequate problem-oriented materials for the curriculum, and continuing efforts must be made to refine the body of knowledge and skills on which the curriculum depends. But a more fundamental issue exists which should be faced at the very outset. Is the objective to create a professional school for policy analysis and administration or to establish a graduate school of applied social science?

The difference between these alternatives is not glaringly obvious, for each involves a commitment to research and teaching in the field of public policy. But there are important distinctions, albeit of shading and emphasis. The primary aim of a professional school will be to educate students for positions of leadership in elective or appointed offices while a graduate school will take fewer students and prepare them for academic careers or for staff positions as sophisticated policy analysts. A graduate school will gather a faculty composed of members trained in one of the traditional academic disciplines who share a taste for policy issues. A professional school will likewise include such persons within its faculty, but it will also attract many professors who have received their training in professional schools and have spent some portion of their careers in public service. A graduate school will be chiefly concerned with research, often of a disciplinary-oriented nature, and even its educational program will be directed toward the development of research skills. A professional school, on the other hand, will place greater importance on teaching and will emphasize curriculum development and pedagogic methods aimed at instilling a capacity to make policy decisions with the help of a variety of skills and disciplines.

Both of these institutions can make an important contribution, and both can play a respected role in the university. But it is important to make a clear choice between the two. Otherwise, it will be extremely difficult to make coherent decisions in selecting students and faculty and developing the curriculum.

In the case of this University, I must acknowledge a marked preference for the professional school. It is clear at Harvard that research on policy issues will continue whether or not any new programs are established. The major new opportunity lies in preparing students for careers in public service. And in the end, the performance of our public institutions will depend much more on the quality of their leaders than on the sophistication of their technical staffs. As a result, if Harvard is to make the maximum contribution to public life, we must devote our energies to educating those who will occupy positions of authority in public institutions.

Even if a clear decision has been made to develop professional programs for public service, a number of pitfalls will remain which can threaten the realization of this objective. The first of these problems is the risk of devoting disproportionate emphasis to formal analytic techniques. Among the subjects I have described, statistics, economics and the related methods of analysis may appear to have more content because they are more precise and reflect a more developed body of knowledge. Teachers in these fields are likely to complain that a professional curriculum allows them too little time to convey an adequate understanding of their disciplines. As a result, they will surely press for more space in the curriculum. But it would be wise to resist these pressures. The apparent precision of the formal techniques is more than offset by their limited usefulness in resolving the unruly problems that actually confront public officials. As a result, excessive emphasis on technique will simply leave the student unprepared to deal with real problems or, worse yet, encourage him to distort reality in order to achieve apparent solutions by formal analysis. If universities are truly interested in educating key public officials, they cannot ignore the "softer" problems of ethics, values, and the human aspects of administration.

This conclusion leads to the second major question. In selecting students for the professional programs, will the admissions office seek out those who are most likely to pursue broad public careers or will they simply choose the applicants with the highest academic records and the highest quantitative aptitude? It will surely be easier to make selections simply on the basis of high grades and scores. Moreover, such students will seem attractive because they will be easier to teach, especially in the more complicated analytic portions of the curriculum. But they will also be the students most likely to seek careers as professors and analytic specialists. And they will surely add their weight to the pressure to expand the courses in the "hard" analytic techniques at the expense of the "softer" areas of the curriculum. Such consequences would be unfortunate. If a university is genuinely committed to professional education for public service, it would be as short-sighted to concentrate on the training of expert policy analysts as it would be for our better business schools to train only members of corporate planning staffs.

The third major problem has less to do with *what* is taught than it does with *how* the teaching is carried out. In this regard, schools of public policy and administration would do well to ponder the experience of schools of law and business, which have traditionally produced most of our institutional leaders in the public and private sectors. One will not learn much about the educational value of these schools by looking at their printed catalogues. The real lessons lie in the nature of the learning process, which is remarkably similar in both schools. In both, class materials are largely composed, not of texts, but of problems adapted from actual situations. In both, instruction is chiefly carried on, not by lectures, but by Socratic discussion in which the professors criticize and question but leave the students to find their own solutions. In both, the most successful part of the curriculum occurs in the first year where courses are largely prescribed so as to create a common experience and a common agenda of problems to be resolved by the students through a process of discussion in and out of class. Finally, both institutions place much less emphasis on conveying information or technique than on repeated drill in the fundamentals of thinking carefully and systematically about human problems.

All of this sounds simple enough. Nevertheless, the price to be paid is a deliberate sacrifice in the amount of material covered in order to emphasize student participation and the patient development of a capacity for careful analysis. In addition, successful programs of this type require a dedication to teaching beyond the levels of effort generally practiced in other parts of the University. These lessons will not come easily to professors who already feel that they cannot cover enough of their material and who come from traditional academic disciplines unused to the demands of rigorous Socratic teaching.

Still another major problem involves the need to convey to students the ability to synthesize all the skills they have learned in order to resolve complex policy problems. One cannot repeat too often that the central aim of a public policy curriculum is to educate generalists for public service. As Brooks Adams put it over a half century ago, "Administration is the capacity of coordinating many, and often conflicting social energies in a single organism . . . probably no very highly specialized class can be strong in this intellectual quality . . . yet administration or generalization is not only a faculty upon which social stability rests, but is, possibly, the highest faculty of the human mind."

Despite this admonition, it will be difficult for universities to educate students in the art of synthesis and generalization, since almost all of the professors who can be recruited initially to teach in policy programs will come from one of the specialized disciplines. Already, one hears the complacent observation that synthesis can be left to the students themselves, since they are the ones who can best understand all the methods of analysis to be brought together in resolving policy problems. Surely this is naive. The process of synthesis is of the highest order of difficulty and deserves competent instruction at least as much as any other part of the curriculum.

In all probability, the problem can be resolved after sufficient time has elapsed so that former students in public policy programs can return to teach on their faculties. But this prospect raises a fifth, and final, issue. What sort of faculty should be recruited to staff a professional school for public service? In answering this question, one must bear in mind that the faculty must bear a heavy responsibility for research. Analytic methods are plainly in need of considerable refinement if they are to become more widely usable. Management and administration in government require intensive study merely to attain a level comparable to the state of the art in the private sector. Much of the needed research, though not all, will probably require the attention of faculty members trained in one of the traditional disciplines. But if this research orientation is pressed too far, the curriculum may grow too abstract for the students' professional needs, and the faculty may fail to do enough to promote the skills of synthesis and integration toward which the program should ultimately be directed. In short, the ideal faculty must retain a delicate balance between discipline-oriented specialists and professionally oriented generalists. Maintaining this balance may prove to be the most difficult problem of all because of the ever-present danger that one wing of the faculty will predominate and gradually transform the entire school in its image. But there is no alternative but to recognize this danger and strive constantly to avoid it, for only with a balanced faculty can the school carry out its dual mission of providing effective professional education while adding to the body of knowledge on which that education must ultimately depend.

EDUCATION FOR PUBLIC SERVICE AT HARVARD

A number of programs are already in existence throughout the University to prepare students for careers in public service. The most general of these is the Public Policy Program in the Kennedy School of Government. The Public Policy curriculum is the project of a major effort by a diverse group of faculty members. Although a majority come from the various social science disciplines, members of the Law Faculty have contributed to the program, and several professors from the Business School and teaching courses in the field of organization and administration.

The first class of students was admitted to this two-year Program in 1969. At present, approximately 25 students enter each year. Roughly half of these students are enrolled only in the Program while the remainder take joint degrees in other faculties, notably Law but also Public Health, Medicine and Business. The curriculum contains virtually all of the subjects I have described earlier in this report. In addition, students are required to spend considerable time in each of the two years working on actual policy problems arising in agencies at the federal, state, and local levels. Although only four classes have thus far graduated from the Program, alumni(ae) have already gone on to hold positions in the White House, on Congressional staffs, in the policy analysis sections of several departments of the federal government, and in a variety of other agencies in state and local governments.

The School of Government also offers a mid-career program for established public officials from a number of government agencies, chiefly at the federal level. Although these students are able to take "counterpart" courses resembling the regular Public Policy offerings, they have considerable freedom to pursue whatever subjects they wish within the University. A loosely structured program of this kind can be of great value to public officials who wish to engage in systematic study of particular fields relevant to their professional work. But it is also clear that the present program does not fill the need for mid-career education outlined earlier in this report. In all probability, therefore, new programs will have to be added.

In considering these changes, the School of Government might well examine the experience of the Business School in its highly successful programs in advanced management.[1] These programs attract experienced executives in their late thirties to early fifties who are destined for positions of broad management responsibility after having specialized in some aspect of their company's operations, such as finance, marketing, or production. During a thirteen-week period, these executives take a prescribed series of courses emphasizing the broader aspects of management that they may confront as they reach higher levels of executive responsibility. The curriculum is problem-oriented and requires the participants to work cooperatively in analyzing a series of cases drawn from actual corporate experience. By encouraging continuous discussion among students from different companies and varied forms of specialized experience, the programs succeed in enlarging the perspective of the participants as well as acquainting them with a body of knowledge relevant to their future responsibilities.

Similar advantages could be achieved in the public sector as well. Like their business counterparts, public servants could be attracted at a point in their career when they seem likely to move from assignments demanding specialized competence to positions of broader administrative authority. To be sure, difficulties may arise in creating a successful program in the public sector because many participants will have had much less experience than their business counterparts in matters of planning, organization and administration. Nevertheless, it would be a great mistake to try to overcome this problem by conveying large quantities of seemingly relevant information through the lecture method. The essential values of a mid-career program are more likely to be achieved by requiring a common curriculum that brings together a variety of specialists to work together in resolving a series of problems that reflect pervasive issues confronting key public officials. Thus, if more material must be covered, it would be best to lengthen the program rather than alter the basic method of instruction. Fortunately, this alternative may prove to be feasible since government agencies have been willing to allow public officials to participate in mid-career programs extending over an entire academic year.[2]

[1] The Advanced Management Program and the Program for Management Development.

[2] Through the Institute of Politics, the School of Government has also been experimenting with short-term institutes for elective officials. In 1972 and again in 1974, a number of newly elected Congressmen were brought to Harvard for an intensive series of seminars on major issues that these legislators would confront upon taking office. While these progams are too brief to encompass the material described in this report, they represent a promising method of assisting important groups of goverment officials.

Progress will be slow in perfecting the Public Policy curriculum and developing a new mid-career program, because the faculty is small and because much effort and time are required to develop sucessful problem-oriented materials. Nevertheless, the School of Government has already taken significant steps to make the task easier. Last fall, the School voted to reorganize its faculty to include only those members with a substantial interest in the new programs previously described. In addition, work is under way to find mechanisms that will insure sustained participation from the Business School to develop new courses drawing heavily upon its experience in the areas of organization and administration.

The School of Education offers a three-year program enrolling over fifty new students each year which is devoted to the planning, management, and evaluation of educational institutions and systems. Graduates have gone on to serve in a variety of key administrative and policy roles, such as school principals, superintendents, college administrators and managers and planners in state departments of education and federal education agencies. The curriculum combines most of the subject matter described earlier in this report with substantive courses in education such as learning and cognitive development, sociology of education, race relations and education, and the like.

Beyond the three-year doctoral program, the Schools of Education and Business have joined in giving a six-week mid-career program for college administrators. Taught by the case method, this course of study includes material on budgeting, planning, personnel relations, and a variety of other problems. In addition to this program, the School of Education offers a mid-career program in administration for officials in primary and secondary school systems. The School is also exploring the feasibility of several other mid-career institutes aimed at such groups as members of state boards of education, education aides to governors, and officials of teachers' unions.

In the School of Design, the curriculum of the Department of City and Regional Planning has been revised to prepare students for a range of administrative and policy positions in state and local government. Over 100 students are admitted each year in this two-year program which emphasizes both knowledge of urban problems and a variety of analytic and administrative methods applicable to government work in this sector. Thus, the curriculum includes such offerings as Quantitative Methods for Planners, Planning Law and Administration, Politics of Urban Planning, Simulation and Urban Development, Management Issues in Private and Public Planning, and Planning Analysis, Policy and Inplementation Workshops. Having revised its curriculum, the Department is now contemplating a broad effort to remodel its course materials to utilize a case and problem method similiar to that of the Business School.

The School of Public Health also has a two-year preprofessional program. Approximately 80 students are enrolled in this course of study which combines a general background in biology and medicine with courses in analytic techniques, administration, evaluation and the political processes affecting health care. In contrast with Education and City Planning, however, this program has been developed in cooperation with Business and Government so that students can pursue much of their work in these two Faculties after completing an initial year in the School of Public Health.

In 1972, the Faculties of Public Health, Medicine, and Business initiated a six-week summer program for experienced officials who needed intensive training to prepare them for administrative positions in large prepaid health plans and other complex health organizations. After several successful years administration, the program may soon be transferred entirely to the School of Public Health. In addition, Public Health is surveying the entire field of health care administration to determine needs for other mid-career programs. With the aid of a large grant from the federal government, the School is likely to mount a number of new efforts of this type within the next few years.

The Law School presents a somewhat different situation. Relatively few law students proceed immediately to jobs in the public sector concerned with broad problems of policy and administration. Yet many of these students will eventually occupy such positions, for lawyers have traditionally been the major source of elected and appointed persons in key government positions. As a result, it is important to find some way of exposing a substantial number of law students enrolled in the Public Policy Program on a joint degree basis. But these students make up only a small fraction of those who will eventually occupy significant positions in public life.

In order to meet this problem, counterpart courses have been devised which are jointly taught by faculty members from the Schools of Law and Government. This effort has not yet been entirely successful. It is difficult to decide what material should be covered in the limited time that can be made available in the normal law curriculum. In addition, much of the formal analytic work seems forbiddingly technical for law students, who are often quite unaware of whether they will ever enter public life. As a result, enrollments in the counterpart courses have been small, and it is clear that considerable ingenuity will be needed to develop a program that will be useful and appealing to a larger segment of the student body.

As programs for public service develop throughout the University, every effort must be made to encourage cooperation and coordination among the participating Faculties. The nature of the cooperation will vary considerably from one Faculty to another. The Business School and the School of Government must obviously work in the closest possible relationship, since each Faculty has a contribution to make to the development and teaching of courses in the basic Public Policy curriculum. The Faculty of Public Health, on the other hand, may continue to rely on professors in the Schools of Government or Business to teach the courses relating to policy analysis and administration rather than recruit their own instructors to perform all of the teaching required. Still other Faculties, notably Education and City Planning, will probably choose to supply their own instructors but may wish to arrange joint appointments with the School of Government and work together in developing course materials and recruiting new faculty. Many of these relationships are already under active study. To encourage this process, I have appointed a University-wide Committee on the Harvard Program in Public Policy and Administration and have elected to serve as its Chairman.

We will need to summon great energy and new resources to develop the programs I have described and sustain them at a level of real distinction. Several hundred students will enroll each year in these programs. More faculty will be needed, more research must be done, and professors must be given adequate time and support to redesign courses and develop successful case materials for instruction.

I can scarcely overemphasize the importance of this effort. We may well be approaching the threshold of a new era of scarcity and restraint in which the deficiencies of government cannot be papered over by constantly rising levels of prosperity. Moreover, we have certainly moved beyond the era when any important group can afford to harbor the belief that ineffective government will leave them free to pursue their private interests. Like it or not, public officials will establish the framework that determines the ability of each segment of society to achieve its goals. For these reasons, every citizen has vital stake in the quality of leadership in our public institutions. Since universities are primarily responsible for advanced training in our society, they share a unique opportunity and obligation to prepare a profession of public servants equipped to discharge these heavy responsibilities to the nation.

DEREK C. BOK,
President.

VOTER REGISTRATION IN LOUISIANA

Mr. KENNEDY. Mr. President, earlier this month, the Honorable Wade O. Martin, Jr., secretary of state of Louisiana, called my attention to an excellent recent study by the Institute of Politics at Loyola University, entitled "Opinions and Attitudes of Louisiana Citizens About Politics, Politicians, and Political Participation."

Chapter II of the study contains a series of findings on voter registration that will be of interest to many of us in the Senate as we prepare to deal in this session with legislation to improve access to registration. Of particular interest in the study are the reasons given by potential voters for their failure to register. The study was based on a survey of nearly 1,000 adult citizens in October and November 1974. It found that over 23 percent of those interviewed said they failed to register because of problems related to the registration process—10.5 percent said it was too difficult to register, 9.9 percent said the registrars' *hours* were inconvenient, and 2.8 percent said they did not know where to register. The study also found that the proportion of persons citing such reasons was even higher for black voters. In addition, it found that more than 20 percent of the elderly citizens failed to register because of the difficulty of registering, compared to 10.5 percent in the sample as a whole.

Mr. President, the Loyola study is an important addition to the growing mass of evidence that the burdens of voter registration are significant obstacles to participation by many citizens in the political process. My hope is that legislation will be enacted early in this Congress to ease the burden, so that all citizens may have the opportunity to exercise their birthright in our democratic society, the right to vote.

Mr. President, I ask unanimous consent that chapter II of the Loyola study to which I have referred, be printed in the RECORD.

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

EXCERPT FROM "OPINION AND ATTITUDES OF LOUISIANA CITIZENS ABOUT POLITICS, POLITICIANS, AND POLITICAL PARTICIPATION," INSTITUTE OF POLITICS, LOYOLA UNIVERSITY, NEW ORLEANS, LA.

II. PROFILE OF REGISTERED AND UNREGISTERED CITIZENS

At the outset of the interview, each person was asked whether he or she was registered to vote.

The following series of tables provide a comparative examination of those Louisiana citizens who say they are registered with those who say they are not. The final section of the chapter deals with the reasons given by those who are unregistered for not registering.

In analysing the tables, the following should be kept in mind: some individuals in surveys of this type tend to say they are registered when in reality they are not. Because registration is considered part of an individual's "civic virtue"—something he should do—some individuals don't like to admit they are not registered. Consequently, the proportion of citizens who say they are registered usually is higher than it likely is in fact.

The highest proportion of registered voters live in the north-central region. The nonregistered are in Orleans metro.

TABLE 1.—PROFILE OF REGISTERED AND NONREGISTERED CITIZENS BY REGION

Status	State-wide	Orleans-metro	South-east	South-central	South-west	North-central	North
Registered	81.8	73.9	84.2	83.0	82.7	98.5	85.6
Nonregistered	18.2	26.1	15.8	17.0	17.3	10.5	14.4

Almost 40 percent of all the unregistered citizens of Louisiana, in fact, live in the Orleans metro area.

TABLE 2.—REGIONAL BREAKDOWN OF REGISTERED AND NONREGISTERED

Region	Registered	Nonregistered
Orleans metro	24.5	38.9
Southeast	16.6	14.0
South central	18.4	16.9
Southwest	10.0	9.4
North central	10.1	5.3
North	20.4	15.5

Over ⅔ of nonregistered citizens live in the cities and surrounding suburbs of Louisiana.

TABLE 3.—RESIDENCE OF REGISTERED AND NONREGISTERED

Residence	Registered	Nonregistered
City	37.6	42.1
Suburb	15.5	26.4
Town	18.7	11.2
Rural	28.3	20.4

As would be expected, a higher proportion of newer residents are unregistered than those who have lived in the State longer.

TABLE 4.—LENGTH OF RESIDENCE IN LOUISIANA OF REGISTERED AND NONREGISTERED

Length	Registered	Nonregistered
All of life	77.9	69.5
Over 10 yr	17.0	13.8
5 to 10 yr	2.4	5.9
1 to 5 yr	2.1	7.3
Less than 1 yr	.6	3.7

One-third of all individuals in the 18 to 30 age group say they are not registered.

TABLE 5.—REGISTERED AND NONREGISTERED CITIZENS BY AGE

Status	Age group					
	18 to 30	30 to 40	40 to 50	50 to 60	60 to 70	Over 70
Registered	66.9	83.7	86.5	88.5	86.9	88.7
Nonregistered	33.1	16.3	13.5	11.5	13.1	11.3

The 18 to 30 group constitute over 40 percent of the nonregistered.

TABLE 6.—AGE OF REGISTERED AND NONREGISTERED

Age	Registered	Nonregistered
18 to 30	20.1	44.6
30 to 40	17.7	15.5
40 to 50	18.4	13.0
50 to 60	18.8	10.9
60 to 70	14.9	10.1
Over 70	9.4	5.4

Education has a significant influence on whether an individual registers or not. The more schooling a person has the more likely he or she will register.

TABLE 7.—REGISTERED AND NONREGISTERED CITIZENS BY EDUCATION

Status	Years of school						
	0 to 8	9 to 11	High school graduate	Trade school	Some college	College graduate	Post graduate
Registered	77.8	75.6	84.6	85.5	84.1	95.6	96.7
Nonregistered	22.2	24.4	15.4	14.5	15.9	4.4	3.3

A majority of registered citizens have a high school education or better while nearly ⅔ of those not registered have less than a high school education. Over 40 percent of the unregistered, in fact, have 8-years of schooling or less.

TABLE 8.—EDUCATION OF REGISTERED AND NONREGISTERED

Years of school	Registered	Nonregistered
0 to 8	31.6	40.4
9 to 11	15.0	21.8
High school graduate	28.0	23.0
Trade school	3.7	2.8
Some college	12.0	10.1
College graduate	6.0	1.3
Post graduate	3.5	.5

A majority of both the registered and nonregistered come from the lower middle and lower income catagories. The nonregistered total is nearly 70 percent in those 2 income groups.

TABLE 9.—INCOME OF REGISTERED AND NONREGISTERED

Income	Registered	Nonregistered
Less than $5,000	29.4	39.8
$5,000 to $10,000	27.8	29.4
$10,000 to $15,000	21.5	16.1
$15,000 to $20,000	8.6	5.5
Over $20,000	6.0	2.6
Refused	6.8	6.6

A slightly higher proportion of union members are registered than nonregistered.

TABLE 10.—UNION MEMBERSHIP OF REGISTERED AND NONREGISTERED

Membership	Registered	Nonregistered
Yes	20.0	16.1
No	80.0	83.9

Catholics constitute a slightly lower proportion of nonregistered citizens than they do of the whole population.

TABLE 11.—RELIGIOUS AFFILIATION OF REGISTERED AND NONREGISTERED

Religion	Registered	Nonregistered
Catholic	37.3	31.8
Protestant	59.2	60.1
Jewish	.3	0.
Other	.9	2.1
None	2.3	6.0

A very high proportion of nonregistered adults in Louisiana are black.

TABLE 12.—RACE OF REGISTERED AND NONREGISTERED

Race	Registered	Nonregistered
White	75.8	58.7
Black	24.2	41.3

There is virtually no difference between registered and nonregistered voters in regard to the proportion of males and females in each category.

TABLE 13.—SEX OF REGISTERED AND NONREGISTERED

Sex	Registered	Nonregistered
Male	50.9	49.5
Female	49.1	50.5

We then asked all those individuals who said they were not registered to tell us why they were unregistered.

Over 23 percent listed factors dealing with the registration process: hours and location of registrar's offices and the difficulty involved with registering. Another 28 percent either said they were not interested or felt it wasn't worth the effort to register. 11 percent did not meet the requirements while 12 percent just had not gotten around to doing it. Over 22 percent did not list a reason.

Table 14—Reason for not registering

Reason:	*Percent*
Haven't lived at address long enough	8.8
Just turned eighteen	2.2
Don't know where to register	2.8
Too difficult to register	10.5
Registrar's hours inconvenient	9.9
Not interested in registering	25.9
Not worth registering	2.8
Just never took time to register	12.2
Other	2.2
No reason	22.7

The largest proportion of unregistered citizens—the 18-30 year old group—either had not met the legal requirements or had not taken time to register. Another 25% of these young citizens, however, said they did not have any desire to register.

The "lack of interest" reason, in fact, is the most mentioned by all individuals over 30.

TABLE 15.—REASON FOR NOT REGISTERING BY AGE

Reason	18 to 30	30 to 40	40 to 50	50 to 60	60 to 70	Over 70
Haven't lived at address long enough	8.3	14.8	18.2	0	5.6	0
Just turned 18	4.8	0	0	0	0	0
Don't know where to register	3.6	0	0	5	0	12.5
Too difficult to register	5.9	3.7	18.2	15.0	22.2	25.0
Registrars' hours inconvenient	10.7	11.1	18.2	5.0	0	0
Not interested in registering	21.4	25.9	22.7	30.0	44.4	37.5
Not worth registering	4.8	3.7	0	0	0	0
Just never took time to register	15.5	22.2	4.5	10.0	0	0
Other	2.4	0	0	5.0	5.6	0
No reason	22.6	18.5	18.2	30.0	22.2	25.0

TABLE 16.—REASONS FOR NOT REGISTERING BY RACE

Reason	Race	
	White	Black
Have not lived at address long enough	12.6	3.8
Just turned 18	1.9	2.5
Don't know where to register	2.9	2.5
Too difficult to register	6.8	15.2
Registrar's hours inconvenient	10.7	8.9
Not interested in registering	24.3	29.1
Not worth registering	3.8	1.2
Just never took time to register	10.7	13.9
Other	2.9	1.2
No reason	23.3	21.5

Black citizens list various aspects of the registration process as the reasons for not registering more often than do white citizens. However, a slightly higher proportion of blacks say they are not interested in registering than do whites.

KAUNDA ON U.S. POLICY

Mr. PERCY. Mr. President. At a recent state dinner at the White House, President Kaunda of Zambia spoke in frank terms about the deficiencies he sees in U.S. policy toward Africa, especially in the U.S. attitude toward achieving majority rule in Rhodesia and Namibia and ending apartheid in South Africa. President Kaunda says that it is not enough to issue perfunctory declarations of support for the principles of freedom and justice in Africa. He states that such declarations should be backed up by concrete support on specific issues, like the demand for a peaceful transition to majority rule in southern Africa.

I ask unanimous consent that his thought-provoking remarks, as reprinted in the New York Times of April 25, 1975, be printed in the RECORD.

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

KAUNDA: "DISMAYED" BY AMERICA

(By Kenneth D. Kaunda)

We seek American understanding of Africa's objectives and America's fullest support in the attainment of these objectives.

The relations between Zambia and the United States cause me no concern because they are cordial, although there is room for improvement through more sound cooperation. What gives Zambia and Africa great cause for concern is America's policy toward Africa—or it is the lack of it, which, of couse, can mean the same thing.

I have not worked at the U.N., but I have been told that at the U.S. sometimes there are tricks in which an abstention in a vote can be a vote for or against. A no-policy position may not be a neutral position indicative of a passive posture, but a deliberate act of policy to support the status quo or to influence events in one direction or the other at a particular time.

We have, in recent years, been most anxious about the nature and degree of the United States participation in building conditions for genuine peace, based on human equality, human dignity, freedom and justice for all—for all—particularly in southern Africa.

You will forgive us, Mr. President, for our candor if we reaffirm on this occasion our dismay at the fact that America has not fulfilled our expectations. Our dismay arises from a number of factors.

We are agreed that peace is central to all human endeavors. We are agreed that we must help strengthen peace wherever it is threatened. There has been no peace in southern Africa for a very long time, a very long time, indeed, even if there was no war as such. The absence of war does not necessarily mean peace. The threat of escalation of violence is now real. It is our duty to avoid such an escalation.

To build genuine peace in southern Africa, we must recognize with honesty the root causes of the existing conflict. First, colonialism in Rhodesia and Namibia. The existence of a rebel regime in Rhodesia has since compounded that problem. Second, apartheid and racial domination in South Africa. Over the last few years, a number of catalytic factors have given strength to these forces of evil.

External economic and strategic interests have flourished colonial and apartheid regimes. Realism and moral conscience dictate that those who believe in peace must join hands in promoting conditions for peace. We cannot declare our commitment to peace and yet strengthen forces which stand in the way of the attainment of that peace.

The era of colonialism has ended. Apartheid cannot endure the test of time. To achieve our aim, we need America's total commitment to action consistent with that aim.

So far, American policy, let alone action has been low-keyed. This has given psychological comfort to the forces of evil.

We become, Mr. President, even more dismayed when the current posture of America toward Africa is set against the background of historical performance in the late fifties and early sixties.

We cannot but recall that America did not wait for, and march in step with, colonial powers, but rather boldly, boldly marched ahead with the colonial peoples in their struggles to fulfill their aspirations: an America undaunted by the strong forces of reaction against the wind of change, whose nationals helped teach the colonial settlers about the evils of racial discrimination: an America whose Assistant Secretary for African Affairs, "Soapy" Williams, could be slapped in the face by a white reactionary on our soil and yet, undaunted, still smile, still stand by American principles of freedom, justice and national independence based on majority rule.

Yes, the reactionaries hated Americans for spoiling the natives, as they would say, for helping dismantle colonialism.

We ask and wonder what has happened to America. Have the principles changed? The aspirations of the oppressed have not changed at all. In desperation, their anger has exploded their patience. Their resolve to fight, if peaceful negotiations are impossible, is born out by history.

So, their struggle has now received the baptism of fire; victories in Mozambique and Angola have given them added inspiration.

Can America still end only with declaration of support for the principles of freedom and racial justice? This, I submit, would not be enough. Southern Africa is poised for a dangerous armed conflict. Peace is at stake. Urgent action is required.

At this time, America cannot realistically wait and see what administering powers will do or pledge to support their efforts when none are in plan. America must heed the call of the oppressed.

Can America stand and be counted in implementing the Dar es Salaam strategy adopted by Africa? In Dar es Salaam early this month, Africa reaffirmed its commitment to a peaceful solution to the crisis in southern Africa as a first priority.

We call upon America to support our efforts in achieving majority rule in Rhodesia and Nambia immediately, and the ending of apartheid in South Africa.

If the oppressed peoples fail to achieve these noble ends by peaceful means, we call upon America not to give any support to the oppressors. Even now we call upon America to desist from direct and indirect support to minority regimes, for this puts America in direct conflict with the interests of Africa—peace deeply rooted in human dignity and equality and freedom without discrimination. We wish America to understand our aims and objectives. We are not fighting whites, we are fighting an evil and brutal system. On this there must be no compromise, none at all.

SOVIET-AMERICAN TRADE

Mr. ABOUREZK. Mr. President, I ask unanimous consent that an article by O. Edmund Clubb in the April 26 issue of Nation on Soviet-American trade be printed in the RECORD.

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

SOVIET-AMERICAN TRADE—CAN'T WE DO ANYTHING RIGHT?

(By O. Edmund Clubb)

At a meeting with Soviet trade officials in Moscow on April 10, Treasury Secretary William E. Simon voiced an American desire "to participate fully in the opportunities offered by open international trade"—that is, trade with the USSR. If that is the case, it is worthwhile to recall a Congressional assessment that found Soviet-American trade prospects reasonably favorable. According to a study by a subcommittee of the House Foreign Affairs Committee, "Economic advantages to the United States are likely to be centered on such specific sectors as imports of petroleum and natural gas and exports of soybeans, feed and cereal grain, and computers, and other high-technology products."

The report foresaw that the exchange "by any projection is not likely to represent a large share of United States trade," but it still calculated that, if projects involving the exploitation and sale of Soviet natural gas to the United States were approved, the trade might grow to a total of $5 billion annually. Moreover, it was thought that significant long-term political benefits might accrue from the growing economic exchange. "Overall," the report said, "such political gains

might far outweigh the relatively modest economic returns."

That 105-page study was made public on June 9, 1973, on the eve of Soviet party leader Brezhnev's arrival in Washington for a meeting with President Nixon. The study had been prepared in the light of general principles enunciated by Nixon and Brezhnev when they had met in Moscow in May 1972, and in view further of the three-year agreement signed by the two countries in October 1972. That latter agreement, designed to be a solid base for a new economic relationship, granted most-favored-nation (MFN) treatment to the USSR in exchange for settlement of the Soviet lend-lease debt to the United States. There seemed real promise of *mutual* benefit. And at Yalta, in June 1974, Nixon and Brezhnev signed a ten-year agreement providing a broad framework for the expansion of economic exchanges and cooperation between the two countries.

The contretemps of December 1974 is fresh in the public memory. In the face of a clear warning from Brezhnev on October 15 that the attaching of political conditions to trade agreements would be improper and "unacceptable" to the Soviet Union, Congress on December 20 passed the Trade Reform Act bearing the Jackson-Vanik amendment, which makes the extension of MFN treatment to the USSR conditional upon a Soviet grant of freedom of emigration for its citizens. Furthermore, the Senate Foreign Relations Committee, diverging radically from the line taken in the study prepared by its House counterpart, had decided that it would not be in the best interest of the United States to have official American participation in the development of Soviet natural-gas resources. So when extending the lending authority of the Export-Import Bank for four years at the $25 billion level, Congress in December stipulated that no Export-Import Bank credits might be used for the production, transportation or distribution of energy materials from the USSR. Finally, Congress put a $300 million ceiling on credits that might be extended to the USSR for any purpose, with that amount to be extended over four years and the maximum in any one year to be $75 million. The $300 million limit might be exceeded only if the President deemed it in the national interest *and the Congress approved*. Congress had not established such limits on total credits for any other country.

The immediate sequel is well known: Moscow refused to accept the indicated requirements for receiving MFN treatment and manifested deep discontent with the credit limitation. Thus the 1972 agreement stood without effect and the Yalta agreement of June 1974 lost much of its force. The Trade Reform Act had checked, substantially, the movement toward Soviet-American economic cooperation.

For an adequate appreciation of the balance of forces in the situation, one must remember that the Nixon administration's 1972 move toward economic rapprochement with the USSR—after twenty years of near-total estrangement—was made to overcome an American disadvantage. The European Economic Community (EEC) and Japan had been building up profitable trade relations with the Socialist bloc for a full decade; and, with the American world trade position deteriorating, the United States had finally decided to compete for a share of that growing market—and especially the Soviet market. But the Trade Act, theoretically designed to facilitate the liberalization of trade exchanges, had failed to do so in the case of the Soviet Union.

The first reason for that setback to the policy of economic cooperation was the attempt by Congress, primarily for domestic political reasons, to link the grant of MFN treatment to Soviet emigration policy. Here a secondary factor also operated. When it tried to win a Soviet political concession in exchange for regularizing economic relations, Congress clearly overestimated the value Moscow put on the new relationship—and thus overrated the strength of the American bargaining position. Although the United States had taken the initiative to rehabilitate trade ties, American political figures were soon heard talking as if Russia had been driven to seek American technology and industrial equipment so that it might emerge from economic stagnation. Sen. Henry Jackson, the prime architect of the Jackson-Vanik amendment, asserted on November 15, 1973, that there was "overwhelming" evidence that the Soviet economy stood badly in need of assistance—but that the help should come "through a reordering of Soviet priorities away from the military into the civilian sector"; it should *not* be given by the United States. Those who, like Jackson, talked of the USSR's dire need were able easily to convince themselves that the United States had the upper hand and could dictate terms, both economic and political.

The circumstance that Russia suffered a massive crop failure in 1972, causing it to buy $1 billion worth of grain in the United States, seemed to confirm the hypothesis that a weakened USSR would have to accede to American stipulations. Besides, a peculiar resentment was born of the grain deal. Although the big American grain companies, as good capitalist enterprises, could be presumed pleased at having sold their not inconsiderable grain stocks at a substantial profit, some critics held that, because the Soviets, in equally sage capitalistic manner, had avoided stiff price hikes by not divulging the extent of their needs, the American nation had been victimized.

Congress took due political note; the matter became a public issue. And in October 1974, when the Trade Act was under consideration, the White House caused two big American grain exporters to cancel a new $500 million sale of grain to the Soviet Union. President Ford was quoted by the head of one of the companies as remarking that there were "political problems in Congress and with the people of the United States, who would be irate that grain was going to Russia in this magnitude." But corn, wheat and soybean prices promptly fell sharply in the American market. And some six weeks later the Soviets were permitted to contract for smaller amounts of grain. They presumably paid less per unit than they would have in October.

Thus it was that the U.S. Congress passed the Trade Act in a form designed to achieve American economic *and political* aims, while offering little in return. The nullifying of the October 1972 agreement was overt, and it was substantive. Congress thus removed the incentives for the Soviet Union to make concessions, whether with respect to trade or as regards Soviet emigration. In mid-January, when both sides were engaged in some assessment of reasons for the development, Tass made what could be taken as an official observation: "As for trade, it is not a unilateral process. We want and are prepared to trade with the West, but . . . only on the basis of full equality and mutual benefits." At a later point in the commentary, Tass remarked pointedly: "The Soviet people . . would never make their right to decide their own internal affairs an object of bargaining. It would never occur to them to predicate their normal state-to-state relations with the United States, say, on abolition of private ownership of the means of production."

It is now evident that the USSR's economic need is *not* so great that it must accept disadvantageous terms for American trade. The Soviet Union is the world's second strongest economic power. In fact, it is the dominant element in an even more powerful combine, the Council for Mutual Economic Assistance (CMEA), which embraces the USSR, Eastern Europe, Cuba and the Mongolian People's Republic. The United States, on the other hand, for all of Secretary of State Henry Kissinger's attempts to foster "interdependence" among the United States, the EEC and Japan, is far from having won command of a solid phalanx of capitalist economies. Particularly in regard to trade with the Soviet Union, EEC countries and Japan were not following the American line before 1972; and with economic depression assailing them, they are even less inclined to follow that lead today. It was only recently that the United States and the USSR reached agreement on broad measures of economic cooperation. The EEC countries and Japan have relationships with the Soviet Union that are already well along on the way of development.

The critical factor is that Russia possesses tremendous reserves of industrial raw materials—including energy materials—and has evidently made the strategic decision to exchange some of its natural riches for large quantities of industrial equipment and technology, in order to speed up its economic development. Soviet natural-gas deposits are estimated to make up nearly one-third of the world's total, and production is steadily increasing. The Soviet production of petroleum, which has also been climbing sharply, in 1974 totaled approximately 450 million metric tons, thus surpassing American production—which, even as in the case of natural gas, is falling. As the world's largest consumer of energy, the United States is a heavy importer of petroleum; the USSR, which plans to produce about 490 million tons in 1975, is an exporter. The United States may be reluctant to assist the Soviet Union with the production of energy materials, but the USSR is increasing production rapidly without American official aid, and is expanding its network of oil and gas pipelines.

Consider now the situation prevailing with respect to Soviet economic exchanges with some of the United States' principal trading partners, especially in the field of energy. In December 1969, the USSR agreed to supply West Germany with natural gas over a period of twenty years, in exchange (in part) for large-diameter gas pipe; the agreement envisaged delivery of 3 billion cubic meters of natural gas per annum by 1978. And in May 1973 the two countries signed a ten-year pact providing for economic, industrial and technological cooperation, with the USSR to provide West Germany with petroleum, natural gas and other industrial raw materials. West Germany is the Soviet Union's chief capitalist trading partner.

As was to be expected, France early entered the field of Soviet trade. In early 1974, it became known that Russia had opened up a huge new natural-gas field near Orenburg, with sulfur as a by-product. With French technical assistance, the first of six projected sulfur-recovery units had been put into operation. At Paris, on December 6, 1974, President Giscard d'Estaing and Soviet leader Brezhnev signed a five-year pact providing for a doubling of Franco-Soviet trade to a figure of $2.65 billion annually by 1980. The agreement included a French credit of $2.5 billion for the financing of Soviet purchases over the five years. And a separate agreement provided for the supply to France of 2.5 billion cubic meters of Soviet natural gas per year to 1980, and 4 billion cubic meters annually thereafter. It was notable that the pertinent joint communiqué referred not to détente but to the policy of "entente" and cooperation between the two countries.

Japan had waited upon American participation in the development of Soviet natural-gas resources, the Japanese interest being focused primarily in deposits located in Eastern Siberia. With the long American

delay, Japan and the USSR early this year signed an agreement providing for the extension of $100 million in Japanese credits for the exploitation of oil and natural-gas resources located on the continental shelf of Sakhalin, with Japan to receive 50 per cent of the production of both commodities. In signing the agreement, provision was made for later participation by American interests, should there prove to be an American desire. That new joint enterprise fell within the larger framework of Soviet-Japanese cooperative undertakings—and a steadily growing trade.

Britain is in the picture with a trade that in 1974 had risen to $1.2 billion. And in February 1975, Prime Minister Wilson made a visit to Moscow that brought agreement on a program of expanded economic cooperation, with the British side to provide approximately $2 billion in low-interest credits to the USSR. Where trade in 1974 had stood four to one in favor of the Soviet exporters of primary materials, the two sides agreed now to work for a more balanced and substantially increased exchange.

And Italy is among those present, especially as far as energy materials are concerned. In 1969, it signed a twenty-year, $3 billion contract for the import of Soviet natural gas via a pipeline to be extended from Bratislava to the Italian border. That pipeline has been completed, and the natural gas flows to Italy, with the contract providing for 100 billion cubic meters to be delivered over the life of the contract. Against the background of a 30 per cent increase of trade in 1973, the USSR and Italy in July 1974 entered upon a ten-year agreement for the development of economic, industrial and technological cooperation.

There are several noteworthy elements in the picture of Soviet relations with the capitalist sector of the world economy. For one thing, it is evident that the USSR is able to tap sources of industrial equipment and technology other than the United States, and some of those sources are, in certain respects, more advanced technologically than is the United States. Further—and this factor seems not to have been widely noted—the other capitalist economies have their own export-import banking facilities, and are quite prepared to foster trade with the USSR by extending liberal credits, and without placing arbitrary limits on such credits.

It is moreover apparent that, in the situation where all the industrialized societies are dependent to varying degrees upon outside sources for supplies of energy and other industrial raw materials, some of our prime trading partners are willing, where the profit motive operates, to be partially dependent upon Soviet sources of supply in the critical present. For in a world of dwindling resources a prosperous autarky is impossible; and in a seller's market *no* source is "dependable"—in American terms. Iran, Venezuela and Canada, in their individual ways, have driven that point home to Washington with respect to the particular matter of oil prices and oil supply. In that general situation, some of our capitalist trading partners have proceeded from the area of "détente" to that of "entente" and to economic cooperation, with the Soviet Union.

The American position is attended by contradictions: officially, given the strictures of the Trade Act, the United States has not progressed beyond economic détente; but American private enterprise has proceeded measurably farther in the direction of "economic cooperation." In the three years 1972–74, under the burgeoning new relationship, the USSR bought much more from the United States than it sold. That naturally pleased American businessmen and, due to the initiative of private American corporations and banks, various promising deals have recently been made. In August 1974, the General Electric Co. contracted to deliver by early 1976, at the price of $250 million, sixty-five gas-turbine compressors for the Soviet natural-gas pipeline system. In November, the USSR bought $100 million worth of tractors from the International Harvester Co.—on cash terms. In February of this year, Intertex International of New York sold the USSR $25 million worth of machinery for the manufacture of artificial fur—again for cash on delivery. Also in February, since the Export-Import Bank's credits to the USSR are now restricted, the Bank of America, at a Washington meeting of the U.S.-U.S.S.R. Trade and Economic Council, proposed that it form a banking syndicate to provide a credit fund of $500 million for the financing of Soviet purchases in the United States. Soviet-American trade thus still stands at a respectable level. Nevertheless, exchanges in 1974 were valued at just under $1 billion, as compared with $1.4 billion for 1973 (when, to be sure, deliveries against the big 1972 grain purchase were a factor), and the future development of that trade is hampered by denial of MFN treatment, and by the lack of government credits other than the piddling $300 million.

Moscow is not without cash in hand. Thanks to higher prices for gold and industrial raw materials—including of course energy materials—it had in 1974 a favorable trade balance of nearly $2.7 billion. Nevertheless, financial opinion stresses the importance of providing adequate credits in the present competitive situation. In a February report to Congress, the Export-Import Bank stated that, due in part to restraints on the bank's lending authority, U.S. companies had begun to feel a reduction of export business. It said further that there were indications that, "in those capital goods sectors of great importance to increasing the level of United States exports, several factors, especially the ability of other countries to finance a larger portion of the export price of their goods than Eximbank feel able to do, were diverting exports from the United States or otherwise causing a slowdown in potential United States sales abroad." Observing that "Official credit agencies in Europe and Japan continued to support as much as 85 per cent of the export price of their exports," the bank reported that a recent survey had shown that major American engineering firms were now in effect submitting their bids from foreign countries "in order to get more adequate financing."

The relevance of those remarks to the issue of Soviet-American trade was apparent. For in circumstances where the American trade deficit in 1974 was $3.07 billion, one of the areas of competition between the United States and its prime capitalist trading partners is clearly the Soviet Union.

What does the future hold in that regard? The existing situation confronts the United States with certain concrete disadvantages. As regards settlement of the lend-lease debt, the 1972 agreement required the USSR to make three payments totaling $48 million against the agreed total of $722 million, with the third payment due on July 1, 1975; but the USSR need make no payment after that until granted MFN treatment.

There is the question of energy materials. As long as American inflation continues, OPEC almost certainly will not offer petroleum at cheaper *dollar* prices. Natural gas? The Federal Power Commission reported at the beginning of the year that, due to declining domestic production, the natural-gas supply situation had unexpectedly worsened; and in February, noting that reductions in delivery had "adversely affected the nation's economic stability and welfare," it ordered that a comprehensive inventory of national natural-gas reserves be compiled. In the meantime, of course, unlike West Germany, France and Italy, the United States remained "independent" of Soviet natural gas.

There is the matter of markets for American agricultural products. The United States' 1974 wheat crop was the biggest in history, and at the time when the Administration forced the cancellation of the Soviet order for 34 million bushels (having permitted the sale of 49 million bushels to China a short time before), some 350 million bushels were still in the market, at high prices, out of a total of a billion bushels available for export that year. But prices for wheat, corn and soybeans had dropped by March 1 of this year far below their October 1947 highs (with soybeans down 48 per cent from $9.69 to $4.95 a bushel). In early 1975, the Soviet Union canceled one small order for wheat; China canceled two. At a time when it is anticipated that American farmers will increase their acreage enough to bring in a record crop of more than 6.2 billion bushels of corn, other countries have also cut back on their purchases of American feed grains. Now Congress purports to see a need to increase farm price supports. The USSR has in the past been a big buyer of American corn (the aborted October deal included 92 million bushels). If there are substantial market surpluses of American grain in 1975, would the USSR, showing up as a prospective purchaser, be turned away?

And what of emigration from the USSR—the issue that gave rise to Congress' assault on the 1972 agreement in the first instance? Such emigration dropped from a level of 32,500 in 1973 to about 21,000 in 1974. The Soviet periodical *Novaya Vremya* reported on January 30 of this year that the number of Soviet Jews applying for emigration had actually dropped continuously since 1973 by reason of difficulties (duly detailed by *Novaya Vremya*) Soviet Jews encountered in Israel. And, sure enough, it was reported from Vienna in mid-March that 40 per cent fewer Soviet emigrants had passed through that point since the first of the year than in the same period of 1974. The surface indications are plain enough; the emigration of Soviet citizens to Israel, and to the United States, will in all probability decrease this year as compared with last. The Jackson-Vanik amendment is shown to have been ill-advised in more ways than one.

Addressing the U.S. Congress on the same day that Treasury Secretary Simon spoke in Moscow, President Ford remarked on the restrictions that Congress had imposed on Soviet-American trade, and said that in the past six months Western Europe and Japan had extended more than $8 billion in credits to the USSR, thus seizing upon opportunities "which could have gone to Americans." He added that the Trade Act had "seriously complicated prospects" of would-be Soviet emigrants.

The President said that remedial legislation was urgently required "in our national interest." And it can be assumed probable that in due course, as the crisis in the capitalist sector of the world economy deepens—which it shows every sign of doing—and as other (and sometimes bigger) problems than the right of Soviet citizens to emigrate intrude upon the attention of the U.S. Government, it can be assumed that in due course MFN treatment, and credit terms as generous as those offered by EEC countries and Japan, will be granted to the USSR—in service of the concept of economic cooperation.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. STEVENS. Mr. President, while en route from Fairbanks, Alaska, after receiving an honorary doctorate degree from the University of Alaska, I was unable to participate in the rollcall vote on S. 846, military aid to Turkey. For the record, I would have voted in favor

of this measure if I had been present for the vote on May 19, 1975.

MIDDLE EAST REAPPRAISAL

Mr. ABOUREZK. Mr. President, recently Alfred J. Hotz, a professor of political science at Augustana College and a personal friend, wrote an excellent article on the serious issues surrounding the Arab-Israeli conflict. He rightfully points out that American foreign policy in the Middle East has been marked by a disappointing lack of clarity, and in some instances, plain doubletalk. Not only has this policy historically jeopardized U.S. interests in the Middle East, it is now one of the underlying factors in the seemingly unbreakable negotiating deadlock.

Professor Hotz aptly argues that this country can no longer conduct its policy on the assumption that American and Israeli interests are always parallel. One interest which is shared by every government, hopefully, is to secure a lasting peace. But, until Israel recognizes that the necessity for flexibility is tantamount to achieving peace, the dangerous and potentially explosive deadlock is sure to continue.

Recently, Professor Hotz was accorded the honor of Professor of the Year at Augustana. Knowing of the tremendous contribution which he has made to quality education in South Dakota, I cannot think of a more appropriate recipient.

Mr. President, I ask unanimous consent that the article by Professor Hotz be printed in the RECORD.

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

[From the Sioux Falls Argus-Leader, Apr. 13, 1975]

MIDDLE EAST REAPPRAISAL COMMENTARY

(By Alfred J. Hotz)

While the deteriorating Vietnam situation occupies the major attention of the Ford Administration and the American public, the far more dangerous issues surrounding the Arab-Israeli protracted conflict require an even more serious reappraisal.

The recent failure of Secretary Kissinger's second-stage "shuttle diplomacy" brings again into sharp focus the apparent irreconcilable Israeli objectives of "absolute security" vs. Arab objectives of "absolute justice". Dr. Kissinger's valiant efforts to encourage both sides to modify their respective absolute demands has, thus far, been only partially successful.

Presently, it is reasonably clear that the Arab states, particularly Egypt (and possible Syria) have moderated their previous postures, and recognize the realities that the state of Israel has the right to exist within "secure and defensible borders," as required by U.N. Resolution 242.

President Ford, in turn, has reiterated the firmly held position that "the United States remains fully committed to the survival of Israel"—i.e., a clear warning to the Arab states.

COMMITMENT NOT PRONOUNCED

Unfortunately, America has not, as yet, pronounced its equally firm commitment to "justice" for the Arab legitimate claims—i.e., Israel withdrawal to the pre-1967 borders, with minor adjustments; and solutions for the legal rights of the Palestine Arabs. No responsible Arab leadership can ignore the obvious fact that Israel not only occupies, but has established Jewish settlements on Arab territories—i.e., Golan Heights, the West Bank, and the Sharmel-Sheik region. Moreover, no tangible expressions have been forthcoming by either Israel or the United States with regard to the vital Arab-Palestine question.

Why do such ambiguities remain in the American posture even as of today? I submit that the lack of success in Kissinger's mediation efforts has been primarily due to the failure of past administrations to clearly define our national interests in the Middle East.

POLICY OF INDIFFERENCE

American lack of clarity and design caused the U.S. to pursue a policy of "indifference" after the first round of war (1948–49). Following the second round (Suez Intervention-1956), the result of Israeli collusion with the British and French to overthrow Egypt's Nasser, we applied a policy of "benign neglect" during the ensuing 10-year quiet period safeguarded by United National forces.

However, the Israeli "preemptive strike" (1967) finally alerted our policymakers to the recurring dangers within the volatile Middle East. We supported U.S. Resolution 242 whose parameters established a balanced formula for a negotiated peace. Yet we failed to pressure Israel to implement that resolution's withdrawal provisions.

This "wait-and-see" policy was directly responsible for the outbreak of the Yom Kippur War (October 1973). The resultant military stalemate did offer opportunities for Kissinger's mediation efforts, which, while partially successful, have floundered over the uncertainties within both Arab and Israeli perceptions of American national interests.

TWO CRITERIA APPLIED

Thus far, America has applied only two of the vital criteria that buttress any definition of the national interest, namely the ideological and military components. Ideologically, we quite properly perceived Israel as a viable, democratic state, and emotionally, sympathized with a valiant Jewish civilization reincarnated after the horrors of Hitler's programs.

Militarily, we deeply admired and respected Israel's superb fighting qualities to defend the newly created nation against the hostility of the surrounding Arab states, and, thereby, to preserve a tolerable military balance of power.

However, our policymakers have sadly neglected three other vital criteria that remain fundamental to the definition of American interests in the volatile Middle East, namely geopolitical, economic and psychological. First, from the strategic (geopolitical) standpoint, the Arab nations offer greater advantages in terms of protection of the southern flank of NATO than does the small, isolated, Israel garrison state.

Second, even prior to the oil-linkage question, the long-range economic promise and productivity of the Arab nations ranks higher by comparison with Israel's economic capabilities.

Third, the more subtle psychological-credibility factor again weighs more realistically on the side of the Arabs.

TWO FACTORS CLEAR

Indeed, at this critical juncture, two factors are irrevocably clear: (1) that American and Israeli interests are not always "parallel", and (2) that time is no longer on Israel's side, even in a military sense, despite augmented American economic aid and sophisticated weaponry.

Many Israeli intellectuals are of the firm opinion that the Jerusalem government has, in the past, lost many excellent opportunities for creating a more favorable negotiating climate with the Arabs. Even the indomitable David Ben Gurion frequently admonished the Golda Meier government to withdraw from Arab territories.

Therefore, time is running short for all protagonists, but especially for the United States. Ambiguities must be replaced by clarities of design and purpose, otherwise the climate towards a negotiated settlement will be overtaken by both contesting sides locking themselves into a "point of no return", which would presage another tragic round of war.

CONSEQUENCES OF WAR

Thus, a 5th round, even in the unlikely contingency that the United States and the Soviet Union would not be drawn-in directly, would have the following drastic consequences: (1) "radicalize" the Arab states as to preclude any kind of political settlement for decades, not just years; (2) strain on Western Alliance irrevocably with a consequent world-wide economic breakdown; (3) "polarize" the Middle East in terms of greater influx of Soviet influence; (4) invite the Afro-Asian reaction against America—i.e., a North-South conflict during the decades ahead; and (5) create bizarre fissures within America with regard to support for Israel, which would make the strains of pro- or anti-Vietnam rhetoric appear as drops in a bucket.

FOREMOST TASK

Therefore, the Ford administration's first and foremost task must be to declare that the United States will not countenance the outbreak of military hostilities by either Israel or Egypt/Syria. However, to carry conviction, we must secure the cooperation of the Soviet Union in a joint declaration, which entails certain accommodations with Moscow.

Secondly, the administration must pressure Israel to be more "flexible" in its absolutist demands. The Rabin government must be reminded not to take American support for granted, and be encouraged to, itself, undertake new "initiatives" for peace and security.

American national interests in the Middle East can no longer be predicated solely on a pro-Israel policy.

PRESIDENT FORD'S ACTIONS IN THE RECENT "MAYAGUEZ" INCIDENT

Mr. THURMOND. Mr. President, this Nation recently was confronted with an unusual situation. An unarmed U.S. merchant ship, the *Mayaguez*, was seized in international waters by an armed vessel belonging to the new Communist government of Cambodia. The Cambodians had apparently decided to test the will and resolve of the United States. The Cambodian leaders were convinced that the United States would sit idly by and allow its citizens to be placed in captivity, as happened when the *Pueblo* was seized by the North Korean Government.

The Cambodians soon found out that they were sadly mistaken about the reaction of the U.S. Government and President Gerald Ford. President Ford's reaction was prompt and decisive. After warning the Cambodians about the consequences of not releasing the ship and its crew, and after negotiations through intermediaries failed, the President took firm, yet calculated action. As a result of President Ford's willingness to take positive steps to meet what was, at the very least, an act of piracy, the Cambodian Government as well as the rest

of the world is now on notice that the United States will not tolerate any acts of aggression against ships flying her flag on the high seas.

I wholeheartedly and fervently commend President Ford on his most courageous and exceedingly well-timed actions in meeting this crisis.

Mr. President, Mr. James J. Kilpatrick wrote a splendid column entitled "Cheers for President in *Mayaguez* Reaction," which was published today, May 20, 1975, in the Washington Star. 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:

CHEERS FOR PRESIDENT IN "MAYAGUEZ" REACTION

Well, God bless Jerry Ford. By his resolute handling of the Mayaguez incident, the President boosted the national morale, spit in the Communists' eye and incidentally promoted his own political fortunes. He had the country smiling on Thursday. It had been a long time since we had much to smile about.

The last few years, and especially the last few months, have constituted one of the most melancholy chapters in the history of the American republic. Defeat abroad was piled upon shame at home. Recession, inflation, unemployment, vandalism, violent crime, disgrace and corruption in high places—the litany of bad news went on and on. However briefly, the clouds now seem to lift.

In the long chronicle of arms, the Mayaguez incident may rate no more than a footnote. Yet small matters may have large consequences, and the consequences of Mayaguez will be felt both at home and abroad.

It is a truism in foreign affairs, as it is in human affairs that strength inspires respect and weakness breeds contempt. If we have learned anything about the nature of Communist aggression, surely we have learned that much at least. The Communists are forever pressing, testing, probing for weakness.

A part of the tragedy of Vietnam is that the Communists probed for weakness after the signing of the Paris accords—and they found weakness. The enemy rightly concluded that the United States had lost its resolve. This same perception was not lost on the South Vietnamese. The end was inevitable.

Then came Cambodia. Anti-American demonstrations in Laos triggered a pro-Communist shakeup there. Thailand scrambled to make peace with her new neighbors. From Singapore to Seoul, from Malaysia to Manila, heads of state reacted with barely concealed consternation. Ripples from the Pacific reached the Mediterranean. This was the wretched situation when the importunate Cambodians, for whom a small blessing may also be invoked, recklessly seized the freighter.

Ford's bold but measured response will not undo the terrible damage that had been done. Of course it will not. But it will help. In some small degree, he has restored the grand old image of an angry Uncle Sam. Hallelujah!

The incident will have domestic consequences also. Pride cannot be measured nor confidence precisely analyzed. These are intangibles, but they have the force of electric current. The President's action could jolt us out of a depression, not of the economy but of the spirit; and a surge of confidence is sorely needed now.

Ford himself will surely benefit politically. He did what had to be done. He made the right diplomatic motions, but he refused to pussyfoot around. While Sen. McGovern was still mewling about a few days' delay, Ford acted. In the course of a dramatic 24 hours, Americans caught memorable impressions of potential leaders. Sens. Kennedy, Humphrey and Jackson left images of indecision and weakness. Sens. Buckley, Tower and Baker, among others, left images of firmness and strength.

The incident itself is likely to pass swiftly from the news, but the images will remain on the retina much longer. The armed services will benefit from this affair: We are likely to hear less talk of whacking the Navy and Marines.

A small affair, yes. It ought not to be overblown. But after so long a series of failures, it is wonderfully good to hear a President report even a modest success; Mission accomplished!

THE UNITED STATES, THE OAS, AND CUBA

Mr. PERCY. Mr. President, the United States is having a difficult time ridding itself of the unwanted diplomatic and economic embargo against Cuba. Although the United States and a majority of the other members of the Organization of American States are now convinced that the time has come to end the embargo, we are permitting procedural technicalities in the OAS to delay the abolition of this anomaly.

A Washington Star editorial of May 12, 1975, made some constructive suggestions for cutting the redtape. In the meantime, as I stated on May 6—S7466—I believe we should begin the normalization process by lifting the U.S. trade embargo now.

I ask unanimous consent that the editorial be printed in the RECORD.

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

OAS: GET ON WITH IT

It is a more than faintly ridiculous spectacle to observe the current meeting here of the Organization of American States foreign ministers doing absolutely nothing to end the long isolation of Cuba when a clear majority of them are ready to act now.

We make no special point of the fact that nine of the 23 member states either have restored diplomatic and trade relations with Cuba or never broke them at all. The important point is that a minority viewpoint is prevailing at the highest level of the OAS because of the glutinous maze of juridical technicalities that consistently renders the organization impotent and even clownish.

As a matter of OAS procedure, sometimes likened to swimming in peanut butter, the General Assembly cannot touch the Rio Treaty under which Cuba has been a pariah state since 1964. Yet the same foreign ministers could amend that treaty in a truce simply by reconstituting itself as what the OAS calls an "organ of consultation."

It passes all understanding why Secretary of State Henry A. Kissinger and the other foreign ministers in all probability will close up shop on May 19 and return to their chancelleries without touching the Cuban question. It is explained by many officials, no doubt mesmerized by years of the stupefying OAS oratory and juridical schematics, that there really is no hurry since the member nations would have to ratify the vote and this could take up to three years.

It is this sort of convoluted thinking that has made the OAS into an ineffective wind tunnel for far too many years. Why, in the name of Simon Bolivar and Jose Martie, cannot the top policymakers of the hemisphere undo here and now what they did with such great rapidity when Fidel Castro was perceived as a common menace?

The signals are clear enough. Castro is ready to bury the machete and talks blithely of sports programs with the most recent U.S. senator errant. President Gerald Ford and Henry Kissinger are ready when the others are. And most of the others—probably excepting Chile, Paraguay and Uruguay—are ready now. Even the Soviet Union, weary of supporting the Cuban Marxist experiment for nearly 15 years, scents the chance to get out from under the $2 million a day dole it pays to keep Castro going in light of his new-found sugar riches.

It was nearly as clear a year ago in Quito when these same foreign ministers met to vote on a resolution to lift the embargo. Unfortunately, the Rio treaty specifies a two-thirds majority to unimpose the sanctions and only 12 'Si' votes could be found. Five other swing nations looked to the U.S. for a signal, detected a hands-off approach from Kissinger's peace plane in the Mideast, and joined the U.S. in abstaining.

Now the OAS has come up with a new strategy. Instead of pursuing a two-thirds vote, the strategists have decided to change the rules so that only a simple majority is required—12 votes instead of the 14 required under existing rules. But the Rube Goldberg procedures say that the General Assembly cannot change the Rio treaty rules or order, only the OAS as an organ of consultation can do this. And so we are back to Square One or Catch 22 or hasta manana.

It is a situaton that cries out for some leadership and the U.S. can well afford to exercise a fruitful role as the traditional leader of the OAS instead of offending them all with such blunders as the discriminatory Trade Act affecting Venezuela and Ecuador. If such leaders as Kissinger, Emio Rabasa of Mexico, Gonzalo Facio of Costa Rica and others decided on an interim means of by-passing the technicalities, this session of the OAS could doubtless decide in loud clear tones to end the isolation of Cuba.

One way, we suggest, would be for the foreign ministers to adhere to their own rules and adjourn on May 19. They could then declare themselves an organ of consultation and swiftly amend the Rio Treaty so that a simple majority of votes could end the embargo. We suppose there is no way around the need for ratification but we regard that as no reason for doing nothing about Cuba. After all, each nation will be empowered to decide for itself what relationship it wants with Cuba so the question of ratification is of interest only to collectors of the more arcane jurisprudential aspects of international law.

Taking action now, even if only as a sense-of-the-OAS gambit, would go a long way toward easing tensions in a hemisphere that has no need for unnecessary problems. Castro would be reassured and perhaps become less paranoid about his neighbors.

Since some very key member states have chosen to defy the OAS prohibition against relations with Cuba and more are on the verge of doing so, the legal eagles of the OAS might protect the dignity of their rules better by adhering more to the spirit than to the letter of the law.

If Castro was a menace to any state by exporting revolution, or if he was uninterested in having peace and commerce with his neighbors, we would say that the isolation should stand. But Castro is a threat only to those in Cuba who disagree with him, and his interest in normalization is obvious. Let's get on with it.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SECOND SUPPLEMENTAL APPROPRIATIONS ACT, 1975

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 5899 which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 5899) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill, as thus amended, be regarded for the purpose of amendments as original text, provided that no point of order shall be waived by reason of agreement to this request.

Mr. ROTH. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. I have no objection to the proposed unanimous consent except for the deletion of sections 304, 305, and 306 of the House bill. I do strongly object to the deletion of these sections, which contain strong antibusing provisions. If the distinguished chairman would delete that from his request I would not object to a unanimous consent.

Mr. McCLELLAN. Do I understand that if I amend the request that all amendments will be considered agreed to en bloc except sections 305, 306——

Mr. ROTH Section 304, 305, and 306.

Mr. McCLELLAN. The exceptions are 304, 305, and 306, those three, the Senator would like to have excluded from the unanimous-consent request?

Mr. ROTH. That is correct.

Mr. McCLELLAN. Is there objection to modifying the request?

Mr. YOUNG. I have no objection to excluding them.

Mr. McCLELLAN. Mr. President, I will modify my unanimous-consent request to agree to, en bloc, all committee amendments to the bill before the Senate, save and except sections 304, 305, and 306 which appear on pages 73, 74, and 75 of the bill.

Mr. ROTH. Mr. President, will the chairman yield for a question?

Mr. McCLELLAN. I yield.

Mr. ROTH. By this modification does it mean that the original text of sections 304, 305, and 306 as continued in the House version remain as part of the bill and the Senate committee proposals would have to be offered as amendment?

Mr. McCLELLAN. These amendments would have to be called up and voted on, that is what it means. It excludes the others if they are adopted, subject to any amendment that anyone might want to offer. These will have to be offered, under this agreement, as amendments to the bill as offered to the Senate, as proposed by the Appropriations Committee of the Senate.

Parliamentary inquiry, Mr. President. I ask if I have stated it correctly.

The PRESIDING OFFICER. The Chair would automatically lay before the Senate committee amendments that were excepted.

Mr. McCLELLAN. All right. I think I stated it correctly.

Mr. ROTH. I withdraw my objection.

The PRESIDING OFFICER. Is there objection to the modified request? Without objection, the modified request is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, beginning with line 4, insert:

FARMERS HOME ADMINISTRATION

AGRICULTURAL CREDIT INSURANCE FUND

Additional loans may be insured, or made to be sold and insured under this Fund in accordance with and subject to the provisions of 7 U.S.C. 1928–1929 as follows: operating loans, $100,000,000.

On page 2, in line 16, strike out "$24,623,000" and insert "$176,856,000".

On page 2, in line 17, after "expended," insert:

able until expended, including $52,000,000 for the summer operations of the Special Food Program, for which sum the Secretary shall apportion to each State an amount of the funds appropriated for the program for the period May through September 1975 that bears the same ratio to the total of such funds as the amount of funds expended during the period May through September 1974 in such State bears to the total amount of funds expended in the program during the same period in all States. If any State cannot utilize all of the funds so apportioned to it, the Secretary shall make further distribution to the remaining States based on need for such funds.

FOOD STAMP PROGRAM

For an additional amount for the "Food stamp program", $884,815,000, to remain available until expended.

SPECIAL MILK PROGRAM

For an additional amount to carry out the provisions of the "Special milk program", as authorized by section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772), $5,000,000.

On page 4, beginning with line 1, insert:

CHAPTER III

DISTRICT OF COLUMBIA

FEDERAL FUNDS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For an additional amount for "Federal payment to the District of Columbia", to be paid to the general fund of the District of Columbia, $8,000,000.

DISTRICT OF COLUMBIA FUNDS

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses", $1,021,000.

PUBLIC SAFETY

For an additional amount for "Public safety", $2,284,600.

EDUCATION

For an additional amount for "Education", $1,792,800.

HUMAN RESOURCES

For an additional amount for "Human resources", $1,733,500.

HIGHWAYS AND TRAFFIC

For an additional amount for "Highways and traffic", $605,000, of which $305,000 shall be payable from the highway fund.

ENVIRONMENTAL SERVICES

For an additional amount for "Environmental services", $1,200,000, of which $600,000 shall be payable from the water fund, and $500,000 from the sanitary sewage works fund.

SETTLEMENT OF CLAIMS AND SUITS

For an additional amount for "Settlement of claims and suits", $166,300.

DIVISION OF EXPENSES

The sums appropriated herein for the District of Columbia shall be paid out of the general fund of the District of Columbia, except as otherwise specifically provided.

On page 5, in line 11, strike out "III" and insert "IV".

On page 5, in line 25, strike out "$146,400,000" and insert "$256,400,000".

On page 6, beginning with line 1, insert:

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", $425,000,000, to remain available until expended;

On page 6, in line 17, strike out "IV" and insert "V".

On page 6, beginning with line 23, insert:

BUREAU OF OUTDOOR RECREATION

LAND AND WATER CONSERVATION FUND

For an additional amount from the "Land and Water Conservation Fund", $7,492,000, which shall be available to the National Park Service for land acquisition, to remain available until expended.

On page 7, in line 6, after "$350,000," insert "to remain available until expended."

On page 7, beginning with line 7, insert:

NATIONAL PARK SERVICE

PLANNING AND CONSTRUCTION

For an additional amount for "Planning and construction", $2,300,000: *Provided*, That these funds shall be available to assist in constructing a sewage system and treatment plant in cooperation with the towns of Harpers Ferry and Bolivar, West Virginia, to serve such towns and the Harpers Ferry National Historical Park: *Provided further*, That this appropriation shall be rescinded if H.R. 4481 is enacted into law and contains funds for this purpose.

On page 7, in line 20, strike out "$6,600,000" and insert:

$8,500,000, of which $2,000,000 shall remain available until October 1, 1975: *Provided*, That with the exception of $28,352,000 for public school assistance, none of the funds appropriated under this head in this or any other appropriations Act for fiscal year 1975 shall remain available beyond June 30, 1975, unless specifically provided otherwise in such Acts.

CONSTRUCTION

For an additional amount for "Construction", $10,000,000, as authorized by Public Law 93–638, Title II, Part B, to remain available until expended.

On page 8, in line 8, after "$900,000", insert "to remain available until expended."

On page 8, beginning with line 9, insert:

TRUST TERRITORY OF THE PACIFIC ISLANDS

For an additional amount for "Trust Territory of the Pacific Islands", $8,050,000 to remain available until expended: *Provided*, That none of these funds shall be available until the enactment of authorizing legislation.

On page 8, in line 23, strike out "$1,000,000" and insert "$8,000,000".

On page 9, beginning with line 1, insert:

PAYMENTS TO THE U.S. VIRGIN ISLANDS AND PUERTO RICO

(Indefinite Appropriation of Receipts)

There shall be appropriated from the Treasury and transferred and paid into the treasuries of Puerto Rico and of the United States Virgin Islands the amount, as determined by the Administrator of the Federal Energy Administration, of all import license fees collected by the Administrator pursuant to Presidential Proclamation Numbered 3279, as amended, between May 1, 1973, and January 31, 1975, exclusive of refunds and reductions, for imports of crude oil, unfinished oils, and finished products, into Puerto Rico (other than imports from the United States Virgin Islands) and into the Customs Territory of the United States from the United States Virgin Islands. Such sums so transferred and paid over shall be used and expended by the Governments of Puerto Rico and the United States Virgin Islands for public purposes as authorized by law.

On page 9, beginning with line 18, strike out:

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $390,000.

SALARIES AND EXPENSES, NATIONAL GALLERY OF ART

For an additional amount for "Salaries and expenses, National Gallery of Art", $90,000.

On page 10, in line 1, strike out "V" and insert "VI".

On page 10, in line 21, after "Act," insert "or any other Act,".

On page 11, beginning with line 21, insert:

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

Of the funds appropriated for Health Services by Public Law 93-517, $5,000,000 shall remain available through June 30, 1976 for the National Health Service Corps, in addition to funds provided to the National Health Service Corps by Public Law 93-324, as amended.

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM AND DIGESTIVE DISEASES

For an additional amount for expenses necessary to carry out the National Arthritis Act of 1974 with respect to the National Commission on Arthritis and Related Musculoskeletal Diseases, $300,000 for fiscal year 1975.

On page 12, in line 14, strike out "$134,000" and insert "$1,192,000, of which, $1,058,000 shall be derived by transfer from the appropriation for 'Health Resources', fiscal year 1975."

On page 12, beginning in line 25, after "Act," strike out:

$127,600,000, of which $18,700,000 shall remain available until December 31, 1975, for carrying out section 3 of the National Health Planning and Resources Development Act of 1974

and insert:

$126,475,000, of which $10,000,000 shall be available for carrying out section 3 of the National Health Planning and Resources Development Act of 1974,

On page 13, in line 6, strike out "$22,000,000" and insert "$29,575,000".

On page 13, in line 16, strike out "$4,000,000" and insert "and Part B of the Headstart-Follow Through Act, $9,000,000."

On page 13, in line 19, after "out", insert section 705 ($204,131,000), section 708(a) ($12,447,000), section 708(c) ($9,958,000), section 711 ($7,468,000), and section 713 ($2,489,000) of

One page 13, in line 22, strike out "$125,000,000" and insert $236,493,000".

On page 13, beginning with line 23, insert:

EDUCATION FOR THE HANDICAPPED

For an additional amount for "Education for the Handicapped" for carrying out Part F of the Education of the Handicapped Act, $250,000.

On page 14, at the end of line 4, insert "$82,400,000, of which $15,000,000 for veterans' cost-of-instruction payments shall remain available until June 30, 1975, and".

On page 14, in line 7, strike out "to".

On page 14, in line 7, before "remain" insert "for insured loans shall".

On page 14, in line 8, after "expended", insert a colon and the following:

Provided, That title I, Chapter VII of Public Law 93-305 (Second Supplemental Appropriations Act, 1974) is amended by striking out the paragraph following "Higher Education" and substituting therefor: "For carrying out section 705(a) of the Higher Education Act, without regard to other provisions of said Act, $250,000 to be used in connection with construction projects for extension and continuing education programs: *Provided*, That such sums shall remain available for obligation through June 30, 1975".

On page 14, in line 24, after "729,748,000" strike out the comma and "including $252,000 to carry out section 1113 of the Social Security Act".

On page 14, beginning in line 25, insert a colon and the following:

Provided, That funds appropriated for "Public assistance" for fiscal year 1975 shall be available for carrying out section 707 of the Social Security Act: *Provided further*, That community mental health centers providing covered services to qualified social services beneficiaries pursuant to titles IV-A, VI, and XX of the Social Security Act shall be reimbursed on the basis of reasonable cost for such services without any reduction in such reimbursement on the basis that such centers are receiving Federal funds under the Community Mental Health Centers Act and that the receipt of funds appropriated for community mental health centers for the fiscal year 1975 shall not be used as a factor by the States in calculating reduced reimbursements for services provided pursuant to titles IV-A, VI, and XX of the Social Security Act.

On page 15, in line 17, strike out "section" and insert "sections 301 and".

On page 15, at the end of line 18, strike out "$500,000" and insert "$2,300,000, and for carrying out title III of H.R. 14225 (93rd Congress), $25,000, to remain available until expended."

On page 15, beginning with line 22, insert:

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For an additional amount not to exceed $20,242,000 for payment to the Federal Buildings Fund for portions of the standard level user charges, pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended.

On Page 17, in the line 2, strike out "$462,000,000" and insert "$484,000,000, of which $12,000,000 shall remain available through October 31, 1975."

On page 17, in line 14, strike out "for the fiscal year 1975," and insert "to remain available until September 30, 1975".

On page 17, in line 16, strike out "$455,000,000" and insert $500,000,000."

On page 18, in line 10, strike out "$200,000" and insert:

$1,323,000, of which $1,123,000 shall be for the payment of standard level user charges, together with funds available in Public Law 93-517 for this purpose.

On page 18, beginning with line 14, insert:

SPACE AND FACILITIES

For expenses, not otherwise provided, for payment of standard level user charges pursuant to Public Law 92-313, $360,000.

On page 18, in line 18, strike out "VI" and insert "VII".

On page 18, beginning with line 20, insert:

SENATE

SALARIES, OFFICERS AND EMPLOYEES

COMMITTEE EMPLOYEES

For an additional amount for "Committee Employees", $75,050.

ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

For an additional amount for "Administrative and Clerical Assistants to Senators", $26,274: *Provided*, That effective January 1, 1975, the clerk hire allowance of each Senator from the State of Texas shall be increased to that allowed Senators from States having a population of more than twelve million, the population of said State having exceeded twelve million inhabitants.

CONTINGENT EXPENSES OF THE SENATE

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous Items", $165,000: *Provided*, That, notwithstanding any other provision of law, the Sergeant at Arms, subject to the approval of the Committee on Rules and Administration, is hereafter authorized to enter into multi-year leases for automatic data processing equipment.

STATIONERY (REVOLVING FUND)

For an additional amount for "Stationery (Revolving Fund)", $225: *Provided*, That effective April 1, 1975, and each fiscal year thereafter, the annual allowance for stationery for the President of the Senate shall be $4,500.

ADMINISTRATIVE PROVISIONS

1. The unexpended balances of any of the appropriations granted under the heading "Salaries, Officers and Employees" for the current fiscal year shall be available to the Secretary of the Senate to pay the increases in the compensation of officers and employees notwithstanding the limitations contained therein.

2. Subject to the provisions of section 201 (f) of the Congressional Budget Act of 1974, during such period that the expenses of the Congressional Budget Office are paid from the contingent fund of the Senate, the provisions of the paragraph relating to advances for expenses of Senate committees under the heading "SENATE" in the Act of March 3, 1879 (2 U.S.C. 69), shall apply to the Congressional Budget Office in the same manner as it applies to committees of the Senate, and for such purpose the Director of such Office shall be treated as the chairman of a committee of the Senate.

3. Subject to the provisions of section 7 of the Resolution entitled a "Joint Resolution to provide for the establishment of the American Indian Policy Review Commission", approved January 2, 1975 (88 Stat. 1910), during such period as the expenses of the American Indian Policy Review Commission are paid from the contingent fund of the Senate, the provisions of the paragraph relating to advances for expenses of Senate committees under the heading "SENATE" in the Act of March 3, 1897 (2 U.S.C. 69), shall apply to the American Indian Policy Review Commission in the same manner as it applies to committees of the Senate, and for such purpose the Chairman of such Commission shall be treated as the chairman of a committee of the Senate.

4. Section 3 under the heading "Administrative Provisions" in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1975 (Public Law 93-371), is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) Subject to the provisions of paragraphs (2), (3), (4), and (5), a Senator may lease one mobile office for use only in the

State he represents and shall be reimbursed from the contingent fund of the Senate for the rental payments made under such lease together with the actual nonpersonnel cost of operating such mobile office. The term of any such lease shall not exceed one year. A copy of each such lease shall be furnished to the Sergeant at Arms of the Senate.

"(2) The maximum aggregate annual rental payments and operating costs (except furniture, equipment, and furnishings) that may be reimbursed to a Senator under paragraph (1) shall not at any time exceed an amount determined by multiplying (A) the highest applicable rate per square foot charged Federal agencies by the Administrator of General Services in the State which that Senator represents, based upon a 100 percent building quality rating, by (B) the maximum aggregate square feet of office space to which that Senator is entitled under subsection (b) reduced by the number of square feet contained in offices secured for that Senator under subsection (a) and used by that Senator and his employees to perform their duties.

"(3) No reimbursement shall be made under paragraph (1) for rental payments and operating costs of a mobile office of a Senator unless the following provisions are included in its lease:

"(A) Liability insurance in the amount of $1,000,000 shall be provided with respect to the operation and use of such mobile office.

"(B) The following inscription shall be clearly visible on three sides of such mobile office in letters not less than four inches high:

"'Mobile Office of Senator (name of Senator)

"'FOR OFFICIAL OFFICE USE ONLY'.

"(4) No reimbursement shall be made under paragraph (1) for rental payments and operating costs of a mobile office of a Senator which are attributable to or incurred during the 60-day period ending with the date of any primary or general election (whether regular, special, or runoff) in which that Senator is a candidate for public office, unless his candidacy in such election is uncontested.

"(5) Reimbursements under paragraph (1) shall be made on a quarterly basis and shall be paid upon vouchers approved by the Sergeant at Arms of the Senate."

On page 26, in line 1, strike out "VII" and insert "VIII". On page 26, beginning with line 2, insert:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

For an additional amount for "Construction, General", to remain available until expended, $3,660,000 for which $1,000,000 shall be for necessary expenses of the Secretary of the Army to further the purposes of the Federal project for Cook Inlet Navigation Improvements, Alaska, pursuant to section 203 of Public Law 93–153, by removing to a depth of minus 25 feet mean lower low water the tides at an approximate position of 61 degrees 12 minutes 03 seconds north, 150 degrees 04 minutes 48 seconds west, Cook Inlet, Alaska, which constitutes a danger to navigation in the shipping channel to the Harbor of Anchorage, and the removal thereof is urgently necessary to complete the construction of the trans-Alaska pipeline, and the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with such work on an emergency basis; and of which $1,500,000 is to undertake urgent remedial action to mitigate the imminent threat to lives and property at McMechen, West Virginia, from a massive landslide at that city, and such work is hereby authorized.

ADMINISTRATIVE PROVISION

LOCKS AND DAM 26, MISSISSIPPI RIVER, ILLINOIS AND MISSOURI

Appropriations having been heretofore approved by Congress in Public Laws 91–144, 91–439, 92–134, 92–405, 93–97, and 93–393, to be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, for the replacement and modification of Locks and Dam 26, Mississippi River, Illinois and Missouri, substantially in accordance with the plans approved by the Secretary of the Army on July 14, 1969, the consent and approval of Congress for the construction of said Locks and Dam 26 by the Secretary of the Army having been granted thereby is hereby reaffirmed: *Provided*, That nothing contained herein shall be construed as authorizing a twelve-foot channel above Locks and Dam 26.

OPERATION AND MAINTENANCE

For an additional amount for "Operation and Maintenance, General", $35,000,000, to remain available until expended.

On page 28, in line 7, strike out "$6,725,000" and insert "$3,800,000".

On page 28, in line 9, strike out "VIII'" and insert "IX".

On page 28, beginning with line 12, insert:

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $9,227,000.

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD

(SPECIAL FOREIGN CURRENCY PROGRAM)

For an additional amount for "Acquisition, operation, and maintenance of buildings abroad (special foreign currency program)", $7,000,000, to remain available until expended: Provided, That this appropriation shall be available only upon the enactment into law of H.R. 4510 or equivalent legislation.

On page 29, beginning with line 6, insert:

MISSIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Missions to international organizations", $300,000.

On page 30, beginning with line 1, insert:

CONTRIBUTIONS FOR INTERNATIONAL PEACE-KEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States to meet expenses of the United Nations Emergency Force and the United Nations Disengagement and Observer Force in the Middle East, $28,837,000, notwithstanding the limitation in Public Law 92–544 (86 Stat. 1110): Provided, That this appropriation shall be available only upon enactment into law of authorizing legislation.

On page 30, beginning with line 12, insert:

SALARIES AND EXPENSES, GENERAL ADMINISTRATION

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses, General Administration", $129,000 to be derived by transfer from the appropriation "Salaries and Expenses, Law Enforcement Assistance Administration, 1975".

On page 31, in line 4, strike out "$77,000" and insert "$983,000".

On page 32, beginning with line 3, insert:

FEDERAL PRISON SYSTEM

SUPPORT OF UNITED STATES PRISONERS

(TRANSFER OF FUNDS)

For an additional amount for "Support of United States prisoners", $2,900,000 to be derived by transfer from the appropriation "Salaries and Expenses, Law Enforcement Assistance Administration, 1975".

On page 32, in line 12, strike out "$15,000,000" and insert "$25,000,000".

On page 32, at the end of line 13, after the comma, insert:

Justice and Delinquency Prevention Act of 1974, to remain available until August 31, 1975: *Provided*, That an additional $10,000,000 previously appropriated for "salaries and expenses, Law Enforcement Assistance Administration" shall remain available until December 31, 1975, to carry out title II of the Juvenile Justice and Delinquency Prevention Act and to be used only for administrative expenses, including personnel, state planning costs and special emphasis and treatment programs.

On page 33, in line 8, strike out "$1,100,000" and insert "$1,340,000".

On page 35, in line 25, strike out "$800,000" and insert "$929,000".

On page 36, beginning with line 1, insert:

DEPARTMENT OF THE TREASURY

BUREAU OF ACCOUNTS

FISHERMEN'S PROTECTIVE FUND

For payment to the "Fishermen's Protective Fund", in accordance with section 5 of Public Law 92–569 approved October 26, 1972, $3,000,000, to remain available until expended.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,529,000.

On page 36, in line 12, strike out "IX" and insert "X".

On page 36, beginning with line 21, insert:

FEDERAL AVIATION ADMINISTRATION

OPERATION AND MAINTENANCE, NATIONAL CAPITAL AIRPORTS

For an additional amount for "Operation and maintenance, national capital airports", $850,000 to be derived by transfer from the appropriation for "Civil supersonic aircraft development".

On page 37, in line 6, after "$360,000," insert "to remain available until expended."

On page 37, beginning with line 8, insert:

OVERSEAS HIGHWAY

For necessary expenses for construction of the Overseas Highway in accordance with the provisions of section 118, "Federal-Aid Highway Amendments of 1974", to remain available until expended, $1,000,000, to be derived from the "Highway Trust Fund".

On page 37, in line 24, strike out "$74,725,000" and insert "$77,725,000".

On page 38, beginning with line 3, insert:

RAIL TRANSPORTATION IMPROVEMENT AND EMPLOYMENT

For payment of financial assistance to assist railroads by providing funds for repairing, rehabilitating, and improving railroad roadbeds and facilities, $700,000,000 of which not to exceed $7,000,000 shall be available for administrative expenses of the Secretary to remain available until December 31, 1976: *Provided, however*, That these funds shall be available only upon enactment of authorizing legislation.

On page 39, beginning with line 1, insert:

RESEARCH, DEVELOPMENT AND DEMONSTRATIONS AND UNIVERSITY RESEARCH AND TRAINING

For an additional amount for "Research, Development and Demonstrations", $5,000,000, to remain available until expended, *Provided:* That the amount shall be available for the purpose of Title II, Public Law 93–503 (National Mass Transportation Assistance Act of 1974).

On page 39, beginning with line 13, insert:

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

For an additional amount for "Administrative Expenses", $5,000,000, to remain available until expended.

On page 40, in line 10, strike out "X" and insert "XI".

On page 40, beginning with line 12, insert:

BUREAU OF ACCOUNTS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $13,621,000.

SPECIAL PAYMENT TO RECIPIENTS OF CERTAIN RETIREMENT AND SURVIVOR BENEFITS

For an additional amount for "Special payment to recipients of certain retirement and survivor benefits", $1,750,000,000.

On page 41, beginning with line 2, strike out:

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $229,000.

On page 41, in line 7, strike out "$1,937,000" and insert "$1,000,000".

On page 41, at the end of line 9, strike out "$4,483,000" and insert "$2,000,000".

On page 41, beginning with line 15, insert:

EXECUTIVE OFFICE OF THE PRESIDENT

SPECIAL ASSISTANT TO THE PRESIDENT

Of the amount provided under this head in the "Treasury, Postal Service, and General Government Appropriation Act, 1975", $40,000 shall be available for expenses of travel, notwithstanding the provisions of Section 501 of the Act.

On page 42, in line 4, strike out "$363,100,000" and insert "$371,070,000".

On page 42, in line 10, strike out "expended" and insert "September 30, 1976".

On page 42, beginning with line 11, insert:

COMMISSION OF FEDERAL PAPERWORK

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $50,000.

On page 43, beginning with line 1, insert:

PERSONAL PROPERTY ACTIVITIES

GENERAL SUPPLY FUND

For necessary expenses for the "General Supply Fund", $65,000,000.

On page 43, beginning with line 5, strike out:

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Federal Election Campaign Act Amendments of 1974, $500,000.

On page 43, in line 20, strike out "XI" and insert "XII".

On page 44, in line 2, after "79" insert "and Senate Document Numbered 40".

On page 44, in line 3, strike out "$59,699,187" and insert "$94,037,225".

On page 44, beginning with line 22, insert:

SENATE

"Office of the Legislative Counsel of the Senate", $23,550;

CONTINGENT EXPENSES OF THE SENATE

"Senate policy committees", $30,160;

"Inquiries and investigations", $575,625;

"Folding documents", $3,400;

"Miscellaneous items", $3,100;

On page 45, in line 19, strike out "$31,460" and insert "$21,220".

On page 45, in line 20, strike out "$18,655" and insert "$12,685".

On page 46, in line 3, strike out "$14,910" and insert $"12,010".

On page 46, beginning with line 11, insert:

"Senate Office Buildings", $451,200;

"Senate Garage", $16,900;

On page 46, in line 20, strike out $1,565,000" and insert "$1,365,000" and a colon and "Provided, That $200,000 of the amount allocated for rental of space under this head, fiscal year 1975, may be used for increased pay cost".

On page 48, beginning with line 17, insert:

OFFICE OF MANAGEMENT AND BUDGET

"Salaries and expenses", $500,000;

On page 52, in line 25, strike out "$260,635,000" and insert "$266,350,000".

On page 53, in line 4, strike out "$156,900,000" and insert "$154,600,000".

On page 53, in line 20, strike out "$225,635,000" and insert "$233,135,000".

On page 55, in line 6, strike out "$12,000,000" and insert "$6,100,000".

On page 56, in line 4, insert:

"Operation and maintenance, general", $13,000,000;

On page 56, beginning with line 21, insert:

CENTER FOR DISEASE CONTROL

"Preventive health services", $2,802,000 which shall be derived by transfer from the appropriation for "Health Resources";

On page 57, beginning with line 2, insert:

For increased pay costs authorized by or pursuant to law, to be derived by transfer from the appropriation for "Health Resources", as follows:

National Heart and Lung Institute $500,000;

National Institute of Dental Research, $169,000;

National Institute of Arthritis, Metabolism, and Digestive Diseases, $93,000;

National Institute of Child Health and Human Development, $469,000;

National Institute of Environmental Health Sciences, $222,000;

National Library of Medicine, $400,000;

On page 57, beginning with line 17, insert:

"Alcohol, Drug Abuse, and Mental Health Administration", $1,547,000 which shall be derived by transfer from the appropriation for "Health Resources";

On page 71, beginning with line 1, insert:

DISTRICT OF COLUMBIA

(OUT OF DISTRICT OF COLUMBIA FUNDS)

"General operating expenses", $1,383,500, of which $21,500 shall be payable from the highway fund (including $5,300 from the motor vehicle parking account), $3,600 from the water fund, and $1,400 from the sanitary sewage works fund;

"Public safety", $20,246,900, of which $979,200 shall be payable from the highway fund;

"Education", $11,919,000;

"Recreation", $496,700;

"Human resources", $3,980,800;

"Highways and traffic", $801,400, of which $609,900 shall be payable from the highway fund (including $14,700 from the motor vehicle parking account);

"Environmental services", $3,577,000, of which $851,700 shall be payable from the water fund, $1,176,600 from the sanitary sewage works fund, and $30,500 from the metropolitan area sanitary sewage works fund.

SEC. 307. The Secretary of Housing and Urban Development may not obligate the funds made available to the Department of Housing and Urban Development in Title II of this Act unless all budget authority provided by law to carry out provisions of Section 235 of The National Housing Act has been made available for obligation.

Mr. McCLELLAN. Mr. President, at this time I want to make a statement on the bill. I am not now offering the excepted amendments at this time.

Mr. President, H.R. 5899, the Second Supplemental Appropriations Act, 1975, as reported by the Appropriations Committee provides new obligational authority of $15,939,642,998. Of this amount $14,164,790,103 is contained in title I, General Supplementals and $1,774,852,895 is in title II, Increased Pay Costs.

For title I, the committee recommendation is $1,247,779,000 over the budget estimates and title II is $279,656,550 below the budget estimates. This represents a new increase of $968,122,450 over the budget estimates for the entire bill as reported.

With regard to comparative estimates with the House-passed bill, the Senate Committee recommendations for title I are $4,523,200,587 over the House and for title II we are $19,399,825 over the House. This represents a total of $4,542,600,412 over the House bill.

The House passed this bill on April 15, 1975 and the Senate Committee considered it and ordered it reported on May 13. In the meantime, Mr. President, the Senate received a number of additional budget estimates that were not submitted to nor considered by the House. To a large extent, this explains the rather significant increase over the House bill. The Senate Committee considered $3,452,132,902 in late budget estimates that were not considered by the House.

Mr. President, this Supplemental Appropriations bill which approaches $16 billion is one of the largest supplemental bills we have had for many years. We regret the size of this bill, but the committee is convinced that all of the funds provided for in this bill are needed at this time.

The respective subcommittee chairmen and members will be on the floor to discuss the details of the various chapters in the bill and I shall not take the time to detail them in my remarks. I would, however, like to point out just a few of the major items that comprise most of the bill.

Chapter I, the Department of Agriculture contains slightly more than $1 billion. This is all for food programs, including almost $900 million for the Food Stamp program. The 1975 budget was submitted on the assumption that the economic situation would improve and that inflation would level off. Neither of these assumptions have proved to be correct. Unemployment has risen along with the cost of food and, as a result, we have millions of participants in the program and an increased cost for those participants. Other factors contributed to the need for increased funds but the bulk of it can be explained as a result of the distressing economic situation.

In chapter IV, Department of Housing and Urban Development and Related Agencies, we have an increase of more than $800 million. Most of this is for increased veterans programs.

More than half of the bill total is contained in chapter VI, Department of Labor and Health, Education, and Welfare. In this chapter, we have $5 billion for repayment of advances to the unemployment trust funds and this, of course, is directly related to the economic conditions. This chapter also contains approximately $3 billion for education programs and other programs for HEW. As I indicated, this chapter exceeds $8 billion.

Chapter X, Transportation, includes more than $800 million in new budget

authority. The major portion here is an item of $700 million to provide financial assistance to railroads for improving, repairing and rehabilitating railroad beds and facilities.

Chapter XI, Treasury, Post Office and General Government contains new budget authority of more than $2.25 billion and the bulk of this chapter is contained in one item, $1.75 billion for special payments to recipients of certain retirement and survivor benefits. These are payments mandated by the tax legislation that was enacted recently by Congress.

Chapter XII, provides for payment of claims and judgments and totals about $100 million.

DEPARTMENT OF DEFENSE PORTION—SECOND SUPPLEMENTAL APPROPRIATIONS BILL

Mr. President, the committee considered a supplemental request of $1,807,803,000 for the Department of Defense, excluding military construction. Of this total, $46,074,000 was for increased subsistence allowances, $235,300,000 was for increased retired pay costs, and $1,526,429,000 was for increased military and civilian pay costs.

The committee recommends new appropriations of $1,528,600,000, plus the transfer of $168,694,000 within existing appropriations, or total funding of $1,697,294,000. The transfer is from funds set aside in departmental reprograming, but denied for this purpose.

Total funding recommended is $110,509,000 below the administration's request. The reductions are based on recomputation of requirements using information made available subsequent to submission of the supplemental request. Essentially, this same factor accounts for the committee's recommendation being $5,015,000 higher than the amount in the House bill.

Mr. President, these few items represent a little more than $13 billion of the bill total of slightly more than $14 billion for title I. Most of these items are mandated by previously enacted law and neither the Congress nor the administration has much discretion in the matter.

Mr. President, that concludes my general remarks with respect to making appropriations, therefore, I will now yield to the distinguished Senator, the ranking minority member on the committee, from North Dakota.

Mr. YOUNG. Mr. President, I support the remarks of the chairman of the Appropriations Committee, Mr. McCLELLAN. He has provided a detailed overview of this second supplemental appropriations bill for fiscal year 1975.

The Appropriations Committee is recommending an increase of $4,542,600,412 over the amount provided by the House of Representatives. However, I would like to re-emphasize that the Senate received additional supplemental requests in the amount of $3,452,132,902 that were not considered in the House bill. This additional requested amount reduces the difference between the bill we are recommending today and the House bill to approximately $1 billion.

Funds recommended by the committee include approximately $5 billion for the Manpower Administration in the Department of Labor; $3 billion for various programs in the Department of Health, Education, and Welfare; $800 million for the Department of Transportation; $1 billion for food programs in the Department of Agriculture and approximately $2 billion for social security and civil service recipients of which $1.75 billion is for special payments for retirement and survivor benefits. In addition to the above, $1,774,852,895 is provided for increased pay costs for all Government agencies.

As a part of the $800 million for the Department of Transportation, the committee added $700 million to provide Federal financial assistance to railroads for rehabilitating and improving rail rights-of-way providing such amounts would be authorized. The Senate Public Works and Commerce Committees introduced and the Senate passed an authorization bill of $600 million for this purpose subsequent to the Committee on Appropriations reporting the bill.

The Subcommittee of the Committee on Appropriations have held extensive hearings on each of their areas of responsibility of this supplemental bill and have recommended the detailed amounts as contained in the bill and the report.

I urge approval of this bill.

Mr. PASTORE. Mr. President, I thank the chairman of the full Appropriations Committee (Mr. McCLELLAN) for his explanation of the items in the second fiscal year 1975 supplemental appropriations bill. I would like to add a very few comments relating to chapter IX of the bill which relates to the programs falling under the jurisdiction of the Subcommittee on the Departments of State, Justice, Commerce, the Judiciary, and Related Agencies.

Chapter IX of the bill includes some 25 supplemental items in the amount of $95 million. Virtually all of these items are of a minor and routine nature and for the most part include unavoidable costs that were not anticipated when the President formulated his 1975 budget 1½ years ago.

In each of the 25 items, the committee is recommending that the Senate adopt the lower of the House allowance or the budget request.

There are two exceptions, however.

MIDDLE EAST PEACEKEEPING ACTIVITIES

First, the House in its action, did not include the $28 million requested by the State Department for the U.S. assessed contribution to the Middle East Peacekeeping activity. The House denied this item without prejudice because of a lack of authorization legislation.

The necessary authorization has now been enacted in the Senate and is moving in the House. Consequently, the committee has included the required funds.

JUVENILE DELINQUENCY

Second, the committee has included an amendment to the Justice Department budget which would accelerate the implementation of the provisions of the Juvenile Justice and Delinquency Prevention Act. As the Members know, the authorization legislation was enacted last September by overwhelming margins in both the House (329 to 20) and Senate (88 to 1). Subsequently, the administration approached the Appropriations Committee with a request to reprogram up to $20 million to implement the program. Both House and Senate Committees readily agreed to the reprograming proposal. Unfortunately, the Office of Management and Budget has refused to release the funds.

In response to this delay, the House added $15 million to the bill to get the program going. The committee recommends that an additional $20 million be added—$10 million in new appropriations and $10 million to be derived by transfer from unused LEAA funds. I strongly support this committee amendment and recommend its adoption by my colleagues in the Senate. I would like to point out that what, in effect, we are proposing is to agree with the House to eliminate—because of recent developments—the budget request for items such as the Vietcong and North Vietnamese contributions to the so-called Vietnam Peacekeeping Force and in turn redirect these funds to meet urgent domestic needs such as the problem of juvenile delinquency. The effect of this proposal is to assure that every State shall receive at least $200,000 in the next several months to begin to deal with the problem of juvenile delinquency with special emphasis on the prevention of delinquency.

I recommend that my colleagues adopt the committee recommendations for chapter IX.

Mr. ROBERT C. BYRD. Mr. President, in chapter V, the Department of Interior and Related Agencies, the committee is recommending an appropriation of $174,994,000. This is $40,714,000 over the House allowance and $27,804,000 over budget estimates to date.

I should note at the outset that nearly $22 million of the increase over the budget estimates has the administration's formal written support and would receive an estimate if time permitted. That makes the true increase over the administration's recommendations closer to $5.9 million.

The bulk of the funding recommended in this chapter is for firefighting and forest insect control expenditures and for certain cost increases in fuel, utilities and supplies in response to budget requests.

The committee made several changes in the House allowances, and these are covered in the report. I will highlight the principal ones:

Nearly $7½ million was added for National Park Service land acquisition at three units in Maryland, Pennsylvania, and Michigan. All these amounts are included in the fiscal 1976 budget, so this recommendation takes the form of an advance to meet bicentennial priorities and cover certain hardship cases.

There is also $2.3 million added for Park Service construction for a municipal sewage system serving the Harpers Ferry National Historical Park. These funds are needed now or other Federal support for this joint project will expire on June 30.

Ten million dollars has been added to fund a new Indian program of public

school construction assistance authorized by Public Law 93-638. The committee also included $2 million over the budget for the growing backlog in road maintenance on Indian reservations.

We restored $7 million of the House cut in Federal Energy Administration funds. It was the committee's feeling that important energy management programs would suffer under the House allowance. I should note that $9 million requested for home winterization grants is included in Chapter VI under the Community Services Administration. I support the grant program under the FEA, but the needed authorization has not yet passed.

Finally, the committee added an indefinite appropriation of nearly $4½ million for payment of oil import fee revenues to the U.S. Virgin Islands and Puerto Rico. We do not have a budget estimate yet, but the funding has the administration's written support.

Also to assist the territories, the committee has included $8,050,000 in supplemental funding for the Trust Territory of the Pacific Islands. An authorization for $16,500,000, which was the administration's legislative request, just passed Congress and to my knowledge has not yet been signed. No budget estimate has been submitted yet.

On this item, the committee recommended substantial reductions in the total amount authorized because of several serious questions that have been raised over the management of trust territory programs. Only those amounts deemed essential to ongoing operations have been approved.

The PRESIDING OFFICER. The clerk will state the excepted committee amendments.

The assistant legislative clerk read as follows:

On page 72, beginning with line 23 strike sections 304, 305, and 306, and insert new language.

Mr. McCLELLAN. Mr. President, the committee amendments to sections 304, 305, and 306, general provisions, were excluded from the unanimous consent approval. I assume that would be the pending issue before the Senate at this time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. McCLELLAN. That is the pending issue, I assume.

A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Is that the issue before the Senate?

The PRESIDING OFFICER. It is a single amendment that is pending.

Mr. ROTH. Mr. President, is this the proposed amendment to sections 304, 305, and 306? Am I correct?

The PRESIDING OFFICER. It is a single strike out and insert the amendment to sections 304, 305, and 306.

Mr. ROTH. Mr. President, I rise in opposition to the proposed committee amendment to sections 304 and 305. I think in effect what these amendments do is to very substantially gut the antibusing language in the House version. Mr. President, for that reason I strongly support the language that was adopted by the House.

Mr. President, the language adopted by the House does the following:

The first section prohibits HEW from using supplemental funds to force busing, school closings, and transfers or assignments on racial grounds over the protests of the parents of the students involved.

The second section of the amendment prohibits HEW from forcing the same actions as a condition of obtaining Federal funds which would otherwise be available.

The third section forbids the use of Federal funds in the supplemental for the transportation of students or teachers to overcome racial balance or to carry out a plan of racial desegregation. Now the committee amendment would very seriously weaken these provisions; in fact, it defeats the very purpose of this antibusing legislation. The practical effect of the proposed amendment would be to permit HEW to use funds for busing when it finds a school or school district is not desegregated as that term is defined in title IV of the Civil Rights Act of 1964, or it would permit HEW to cut off funds where a school district was not implementing an acceptable plan to desegregate schools. As I said earlier, the committee amendment guts the purpose of the House version and should, for that reason, be defeated.

Mr. President, it is wrong for the Federal Government, through the use of Federal funds and other coercive means, to ride roughshod over the wishes of the parents of our schoolchildren by forcing their children to be bused to schools outside of their neighborhood. As I have said ever since I have been in Congress, the answer to our school problems lies in quality education rather than in the breakup of our neighborhood schools.

I have recently introduced a joint resolution proposing an amendment to the Constitution to prevent forced busing as well as an amendment to prohibit the use of Federal funds for busing without first obtaining parental consent. All of these measures are worthy of the most serious consideration by the Congress.

As most of my colleagues know, former Congresswoman Edith Green, an ardent integrationist and staunch supporter of the Supreme Court decision of 20 years ago, as I am, recently said:

More and more rank and file black Americans are speaking out for quality education rather than the mere matching of children of a certain skin pigmentation. Many white and black parents are annoyed by the disruption of their neighborhood schools and incensed by the dreams of those who think children are merely numbers.

Whites and blacks alike today seem to be more concerned about the quality and kind of education their children receive than where they go to school. The heavy-handed intrusion of the Federal Government into the lives of our citizens in the educational as well as other areas must be stopped—and I see the House amendment as one means of reversing this process.

The road to a solution to the forced busing problem is a difficult one but we in the Congress will have to start traveling it now if we are to protect the educational futures of the children whose parents sent us here to represent them.

The people of Delaware and, I believe, the rest of the country are becoming impatient with the Congress for refusing to face up to this important issue. So let us begin acting now by retaining the House version of section 304 and section 305.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ROTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ROTH. 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. ROTH. 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. ROTH. Mr. President, I ask for the yeas and nays on the committee amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous unanimous-consent order, there will be no rollcall votes until the hour of 12:30 p.m.

Mr. ROTH. Mr. President, I request that the rollcall vote on this be held at 12:30 p.m.

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

Does the Senator from Delaware ask that the pending amendment be laid aside until the hour of 12:30?

Mr. ROTH. That is satisfactory to the Senator from Delaware, with the understanding that the vote will be held at 12:30.

Mr. McCLELLAN. Mr. President, do I correctly understand that the Senator is requesting that a vote be taken on this amendment not later than or at 12:30 this afternoon? In other words, that limits the debate on the amendment. If that is what the Senator wishes to do, it will have to be debated in that period of time.

Mr. ROTH. In answer to the distinguished chairman, I have no objection to continued debate. Since there seems to be no request for further debate and since the vote cannot be held at the present time——

Mr. McCLELLAN. No one has spoken in support of the committee's position. I assumed there would be some who might wish to be heard on the amendment, and I did not want to preclude anyone from the opportunity to discuss it.

The PRESIDING OFFICER. The Chair

did not seek to limit debate. When the Senator from Delaware had concluded his remarks, no one rose to continue, and the Chair called for a vote. However, under the previous order, no votes are to occur before 12:30 p.m. That was the reason for that decision. If further debate is required or desired, the Chair will be happy to accommodate Senators.

Mr. McCLELLAN. I understood that situation. I just wanted to be certain that we were not agreeing to vote on this amendment at that time. Under the unanimous-consent agreement, there are to be no rollcall votes until that time. However, there may be some Senators who want to oppose the position of the distinguished Senator who sponsors this amendment. I did not want to preclude them from having that opportunity.

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

Mr. McCLELLAN. I yield.

Mr. BROOKE. The distinguished chairman is quite correct. There is opposition to the Senator from Delaware's position. I strongly oppose it.

I have a statement which I would like to make, but in the interest of time, and since very few Senators were in the Chamber, I thought that I would just put the statement in the RECORD and have the vote at 12:30.

This is a matter on which we have voted time and time again. It is nothing new. It is the same old business. What is being attempted is to go back even further than we did in the Mansfield-Scott language which was included in the bill last year. The effect of rejecting the committee amendment and accepting the House amendments would be to destroy even that.

I think most Senators are well aware of what the House amendments would do, and I did not think it was necessary to have a lengthy debate. I certainly am in opposition to the amendments.

I appreciate the distinguished chairman's fairness in giving us an opportunity to be heard.

Mr. McCLELLAN. All I was trying to do was to preserve the rights of Senators who may want to speak in opposition to the amendment, or otherwise. I did not want this debate to be shut off.

Mr. BROOKE. That certainly is not surprising. It is customary of the Senator to be fair. And I certainly appreciate the opportunity to be heard.

Mr. ROTH. Mr. President, I wish to emphasize that I, too, was not trying to cut off debate. Since no one had risen to speak on either side, and inasmuch as the Chair stated the vote could not occur until 12:30, I asked that the vote be postponed until that time.

The PRESIDING OFFICER. The Senator from Delaware is correct. That was the ruling of the Chair. There was no intent to limit debate in any way.

Since the excepted committee amendment is pending, unanimous consent would be required before the Senator from Rhode Island's amendment could be considered.

Mr. BROOKE. Mr. President, once again we have before us amendments which seek to ignore the tragic educational and social consequences of segregation in the Nation's schools. Once again we have before us amendments which can only lead to future delay in achieving equal educational opportunity for all our children. And, once again I ask my colleagues to join me in rejecting these unconscionable amendments.

The major effect of the amendments passed by the House of Representatives would be the substantial dilution of the guarantee of equality embodied in title VI of the 1964 Civil Rights Act. Title VI bars discrimination in all federally assisted programs and makes Federal grant making agencies, such as HEW, a potent ally of the courts in combating race discrimination and assuring black children of their constitutional right to a desegregated education.

Title VI was more than a reaffirmation of Federal policy; it was the basis of an alternative approach to school desegregation. Every Federal agency administering Federal assistance was charged with the obligation of putting an end to discrimination in federally assisted programs. If discrimination continues, the act authorizes the "termination of or refusal to grant or continue assistance under any such program or activity." In short, title VI imposed on HEW's Office of Education the responsibility for affirmatively enforcing nondiscrimination in all school districts receiving Federal assistance. To enforce its orders, HEW was given the right to terminate Federal aid to any school system refusing to comply.

Title VI reflected an appreciation on the part of Congress of the complex administrative problems associated with the process of school desegregation and the inability of the judicial process to deal comprehensively with the problem on a nationwide basis. The disappointing progress made in the courtroom in the decade following Brown against Board of Education amply supported Congress' judgment of the need for an additional means—the Federal purse—for realizing the goal of equal educational opportunity. Title VI admirably serves this need in the area of school desegregation by requiring HEW to assume a major role in monitoring school desegregation, and by replacing the court order with the termination of Federal funds as the sanction for assuring compliance.

The importance of HEW's administrative authority under title VI is underscored by the continuing commitment of huge sums of Federal assistance to public education at the elementary and secondary level. In view of the significance of the role played by HEW in achieving our goal of equal educational opportunity, the limitations on the termination power envisioned by the House amendments is indeed a matter of grave concern.

The House amendments contains two related restrictions on HEW authority to enforce compliance with the requirements of title VI. In effect these provide that no funds under the act may be used to force or, as a condition to the receipt of such funds, to require any school system to bus its students, to abolish any school, or transfer or assign any student "on account of race, creed, or color."

That these provisions would seriously hamper, if not totally foreclose, any meaningful attempts by HEW to secure compliance with the nondiscrimination requirements of existing law is clear in view of the nature of the obligation imposed on educational authorities by title VI. As construed by the courts and applicable HEW regulations, funded educational agencies are under the "affirmative duty" to operate systems which are free from discrimination and "to correct the effects of past discrimination". The Supreme Court has consistently recognized that this process will invariably require that students be assigned on the basis of race. Thus, in Swann against Board of Education, the Court specifically endorsed the use of various racially based desegregation measures involving the remedial assignment and transportation of students. And in a companion to Swann, the Court sustained an HEW inspired desegregation plan involving racial student assignments saying that:

> Any other approach would freeze the status quo that is the very target of all desegregation processes. McDaniel against Barresi.

In short, the House amendments would gut administrative enforcement of title VI by depriving HEW of its authority to withhold Federal funds from educational agencies which fail to pursue affirmative nondiscrimination policies mandated by that enactment—that is, policies which necessarily require that students be assigned to schools on the basis of race. In effect, the agency would be relegated to voluntary means of negotiation, conciliation, and the like to secure compliance with Federal law; methods which, if the past is any indication, would prove futile in most cases or would at best lead to haphazard and inconsistent results.

The program primarily affected by this action is the Emergency School Aid Act. One of the eligibility requirements under that act—section 706) is that the applicant school district be implementing a plan to desegregate elementary and secondary school in the district or to reduce minority group isolation in such schools. Since at least some pupil reassignment is a factor in virtually all elementary and secondary desegregation cases, this amendment could severely impair the ability of the Department to enforce the requirements of the statute with regard to desegregation.

The Senate should also reject the House's action because of serious doubts which surround the constitutionality of these provisions. Several Federal courts have held that where race discrimination is involved the prohibitions of the fifth and 14th amendments apply to public and private programs administered by recipients of Federal assistance. In Simkins against Moses Cone Memorial Hospital, the Court of Appeals held that the racially exclusionary policies of certain hospitals receiving Federal aid under the Hill-Burton Act were imbued with sufficient official involvement to bring the hospitals' activities within the fifth amendment ban on racial discrimination. And the Supreme Court ruling in McDaniel against Barresi strongly suggests

that Federal funding activities may not be administered without regard to the affirmative desegregation requirements of the Constitution. As such, the House amendment is clearly susceptible of constitutional challenge as an unlawful limitation on HEW's authority to insure that Federal assistance programs are administered in accord with constitutional standards.

In sum, Mr. President, this amendment would place an intolerable burden on HEW authority to administer Federal educational funding.

We cannot afford to lead our educational system into chaos. We cannot go on record as favoring discrimination by denying remedies to discrimination.

Mr. President, I urge my colleagues to defeat this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Secretary of Health, Education, and Welfare addressed to Senator MAGNUSON, chairman of the Subcommittee on Labor and Health, Education, and Welfare, together with an attached statement.

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

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., April 17, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor and Health, Education, and Welfare, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to bring to your attention certain actions of the House of Representatives in passing the Second Supplemental Appropriations bill (H.R. 5899) on April 15. As adopted by the House, that bill contains two provisions which give us some concern with regard to the ability of the Department to enforce title VI of the Civil Rights Act and the programmatic requirements of the Emergency School Aid Act, funds for which would be appropriated by the bill.

The provisions about which we are concerned are sections 304 and 305 of the House-passed bill. Those sections, which prohibit the use of appropriated funds for certain school desegregation activities, are similar to provisions which have been in the Department of Health, Education, and Welfare appropriations Acts for the past several years. (See, *e.g.* sections 208 and 209 of the 1975 Labor-HEW Appropriations Act, P.L. 93-517.) However, as passed by the House, the provisions do not contain the words heretofore included which would limit the operation of the sections to any school district "which is desegregated as that term is defined in title IV of the Civil Rights Act of 1965." The effect of that deletion would be to prohibit the Department from taking action to require the reassignment of students among schools, as a condition to receiving funds appropriated under this bill, even where that would be necessary in order effectively to desegregate the public schools.

The program primarily affected by this action is the Emergency School Aid Act. One of the eligibility requirements under that Act (section 706) is that the applicant school district be implementing a plan to desegregate elementary and secondary schools in the district or to reduce minority group isolation in such schools. Since at least some pupil reassignment is a factor in virtually all elementary and secondary desegregation cases, the House amendments could severely impair the ability of the Department to enforce the requirements of the statute with regard to desegregation. Moreover, to the extent that the amendment would cause the Department to provide Federal financial assistance to school districts that are, and will continue to be, segregated, the amendment presents a substantial Constitutional issue. A more detailed statement on the effect of the House amendments is enclosed.

Because of the adverse effects discussed above, we urge that if sections 304 and 305 of the House-passed bill are included in the bill reported by your Committee, they be amended to read as those sections have in prior years.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

EFFECT OF THE MOORE AMENDMENT TO THE SECOND SUPPLEMENTAL APPROPRIATIONS BILL, 1975

The amendment offered by Congressman Moore and adopted by the House of Representatives on April 15 would add three sections to the General Provisions in the Second Supplemental Appropriations bill. These provisions would be identical with the Green-Whitten amendments to the 1975 Labor-HEW Appropriations bill as passed by the House last year, but which were later modified in conference.

Sections 304 and 305 are similar to provisions which have been in HEW and Office of Education appropriations Acts for the past several years. However, the Moore amendment would delete certain language from those provisions and thereby reduce the ability of the Department to take action against school districts which are illegally segregated. The language of those sections is set forth below, with the words which would be deleted by the current House amendments marked in brackets:

SEC. 304. No part of the funds contained in this Act may be used to force any school or school district [which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352,] to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school [so desegregated]; or to force the transfer or assignment of any student attending any elementary or secondary school [so desegregated] to or from a particular school over the protests of his or her parents or parent.

SEC. 305. No part of the funds contained in this Act shall be used to force any school or school district [which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352,] to take any action to force the busing of students; to require the abolishment of any school [so desegregated]; or to force on account of race, creed, or color the transfer of students to or from a particular school [so desegregated] as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school.

As enacted in prior appropriations Acts, these sections had the effect of limiting the reach of the Department's title VI authority over schools which already complied with title VI and the Fifth and Fourteenth Amendments to the Constitution. As amended by the House in this bill these sections would have the effect of limiting the Department's reach over schools which were in violation of title VI and the Constitution.

The most important effect of these two sections relates to the Emergency School Aid Act, funds for which are appropriated in this bill. The practical effect of the deletions noted above would be not only to severely limit the Department's ability to enforce title VI of the Civil Rights Act, as it relates to funds appropriated under this program, but also to impair the authority of the Department to require, as a condition for the receipt of ESAA funds, that a school district be implementing a plan to desegregate elementary and secondary schools in the district or to reduce minority group isolation, as required by section 706 of that Act.

Section 306 is identical with section 209 (b) of the 1975 Labor-HEW Appropriations Act (P.L. 93-517) and would have no effect on programs included in this appropriations bill, because it merely restates section 420 of the General Education Provisions Act (as added by section 252 of the Education Amendments of 1974) which is currently applicable to all Education Division programs, including those for which funds would be appropriated by this bill.

Mr. PASTORE. Mr. President, I ask unanimous consent that the amendment proposed by the Senator from Delaware be laid aside temporarily, to be reinstated after the conclusion of the amendment that I intend to call up.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object, will the Senator amend his request so that I might intervene with an amendment immediately after his amendment and before the vote on the amendment of the Senator from Delaware?

Mr. PASTORE. I have no objection to that request being made part of my unanimous consent request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROTH. Mr. President, I think the situation should be clarified, because it is not the Roth amendment that is before the Senate. In the unanimous-consent request, I objected to the substitution of the watered-down committee amendment to the House anti-busing language. So we are now considering the committee amendments to the House language.

Mr. PASTORE. Mr. President, I ask unanimous consent that the pending amendment be laid aside temporarily, to be reinstated upon the conclusion of the amendment I propose to offer and upon the conclusion of the amendment of the Senator from Maryland.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 483

Mr. PASTORE. Mr. President, I call up my amendment No. 483.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PASTORE) proposes an amendment numbered 483.

The amendment is as follows:

On page 33, line 8, strike "$1,340,000" and insert in lieu thereof "$1,720,000". On page 33, after line 20, insert the following:

"FISHERMEN'S GUARANTY FUND

"For an additional amount for the 'Fishermen's Guaranty Fund', $1,910,000 to remain available until expended.

"OFFSHORE SHRIMP FISHERIES FUND

"For expenses necessary to carry out the provisions of the Offshore Shrimp Fisheries Act of 1973, $230,000 to remain available until expended.".

Mr. PASTORE. Mr. President, I propose three amendments to the bill which I have sent to the desk.

Mr. President, subsequent to the full Appropriations Committee meeting to consider the second fiscal year 1975 supplemental appropriations bill, the administration transmitted a request for additional supplemental funds.

The total of the request is $2,520,000 and includes the following three items:

First, $380,000 for the Department of Commerce to support an energy conservation program in cooperation with the American business community.

Second, $230,000 for the offshore shrimp fisheries fund. This is a mandatory item and will allow continued operation of 325 U.S. shrimp vessels in Brazilian waters in 1975.

Third, $1,910,000 for the fishermen's guaranty fund. This is a mandatory item that provides compensation to fishing vessel owners and crews for losses resulting from Ecuador's seizures of seven U.S. fishing vessels which occurred from January 23 through February 2, 1975.

Mr. President, the chairman of the committee, and his counterpart, the ranking member (Mr. YOUNG) have been apprised of this amendment. I understand that there is no objection to it. I ask for a voice vote on the amendment.

Mr. McCLELLAN. Mr. President, there is no objection to this amendment. It deals with a budget request.

The PRESIDING OFFICER (Mr. FORD). The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS), for himself and Mr. BEALL, proposes an amendment:

On page 42, following line 24, insert the following:

GENERAL PROVISIONS

The limitation on the aggregate amount of purchase contracts pursuant to section 5 of the Public Buildings Amendments of 1972 (Public Law 92-313) contained in section 507 of Title V, Public Law 93-381, is increased to $396,106,000.

Mr. MATHIAS. Mr. President, I offer an amendment to the second supplemental appropriations bill to increase the limitation on GSA's purchase contract building authority from the existing $300 million to $396 million. This amendment, which is an administration request, was considered, but not acted upon, by the Treasury-Post Office Subcommittee. Like the House Appropriations Committee, the subcommittee denied the request "without prejudice," until such time as the buildings that are involved in this amendment had been authorized. I am pleased to report that the Senate Public Works Committee, on May 14, approved the two Social Security Administration buildings that necessitate this additional appropriation.

As indicated in the administration request, the increase in the limitation on the purchase contract authority is for the specific purpose of constructing Social Security Administration facilities in the Baltimore, Md., area. My amendment will provide the required funds, and only the required funds, needed to build a computer facility on the Woodlawn campus of the Social Security Administration, and an office building in downtown Baltimore. I want to insure that the legislative history of this bill reflects the specific purpose for this amendment.

The need for both these buildings has been fully documented by the Social Security Administration and the General Services Administration. The capability of SSA to continue to perform its mission nationwide is dependent upon the construction of both buildings. I submit that this project is of considerable importance to each Member of this Chamber.

In view of the positive action of the Public Works Committee, and in view of the crucial necessity for the construction of these facilities, I urge the adoption of my amendment.

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

Mr. MATHIAS. I am happy to yield.

Mr. PASTORE. Mr. President, I wish to associate myself with everything the Senator from Maryland has said. This is an important project, and in time I think it will show that the Government will save money.

Mr. MATHIAS. I thank the Senator from Rhode Island.

Mr. MONTOYA. Mr. President, we analyzed and evaluated this project very thoroughly in the Subcommittee on Treasury, Post Office and General Government, and we were unable to include this limitation. It is a limitation, not a new appropriation. We were unable to include it because under the basic authorizing legislation there is a requirement that the GSA go before the respective Public Works Committees of the House and the Senate for approval of the prospectus.

At the time of the markup, we had no such approval, although both committees were considering an increase in the limitation.

The fiscal year 1975 limitation on purchase contract authority for GSA construction is $300 million. The effect of this amendment is to increase the limitation to $396 million, so that GSA can go ahead with the construction of the two Social Security buildings, which they sorely need, near Baltimore, Md. In view of the approval of the prospectuses by both the House and the Senate Committees on Public Works, which approval took place in the last 2 or 3 days since the full committee considered this, I personally and in behalf of the subcommittee have no objection to the amendment. In fact, I endorse it.

Mr. MATHIAS. I thank the distinguished Senator.

Mr. McCLELLAN. Mr. President, without objection, I shall accept the amendment on behalf of the committee as satisfactory.

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

Mr. YOUNG. I object but only to permit me to make a short statement.

I hope this does not become a regular practice, adding large sums or obligations of money to an urgent supplemental bill. Many of these items could and should wait until the regular appropriations bill, which will be forthcoming in a month or so. I shall not object in this case, I withdraw my objection. But I hope this will not become a regular practice.

Mr. BEALL. Mr. President, I rise in support of the pending amendment to the second supplemental appropriations bill which would make an additional $96 million available for the construction of both the computer facility at the Social Security complex in Woodlawn and an equally importannt office building in downtown Baltimore. I have cosponsored this amendment offered by my distinguished colleague (Mr. MATHIAS) because I am convinced that the Social Security Administration and the people it serves need these facilities and need them now.

I would like to point out that almost all of the citizens of the United States have come to depend on the efficiency of the Social Security Administration. Also, I do not think there is any question as to the need to expand still further its capability. Therefore, with the anticipated and dramatically expanding role of the Social Security Administration, I believe it is incumbent upon us to provide a corresponding expansion of facilities so as to allow for the continued performance of the Agency's national function. To do less would not only be very shortsighted but would result in a disservice to our people.

In addition, the longer construction of the computer and office space is delayed, the greater the eventual cost to the taxpayers. Moreover, construction of these facilities is going to be carried out sometime in the not too distant future. Obviously, the cost next year and the year after is going to be higher than this year. So, if we are interested in the ultimate cost to the taxpayers, we should get the job done before the cost becomes prohibitive.

Mr. President, I strongly urge my colleagues to adopt this amendment.

Mr. MONTOYA. Will the Senator yield?

Mr. YOUNG. Yes, I yield.

Mr. MONTOYA. This is not a new appropriation at all.

Mr. YOUNG. It amounts to an obligation.

Mr. MONTOYA. It is an increase in the limitation on purchase contracts so that GSA can go ahead with construction.

Mr. YOUNG. It results in an expenditure eventually.

Mr. MONTOYA. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MONTOYA. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 43, between lines 19 and 20, insert the following:

TEMPORARY STUDY COMMISSIONS, NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES, SALARIES AND EXPENSES

Funds appropriated under this heading in the Supplemental Appropriations Act, 1975, shall remain available until December 31, 1975.

Mr. MONTOYA. Mr. President, this amendment to H.R. 5899 will provide for extending to December 31, 1975, funds appropriated for expenses of the National Commission on Supplies and Shortages.

This is merely a language change which will extend the availability of the funds already appropriated. This amendment is consistent with Public Law 94–9, which extended the final reporting date and the authorization for appropriations from June 30, 1975, to December 31, 1975. I have discussed this amendment with the Chairman of the Committee on Appropriations and with the ranking minority member, and I believe they concur in its acceptance.

Mr. McCLELLAN. Mr. President, I know of no objection to the amendment. I am prepared to accept it if there is no objection.

Mr. YOUNG. I have no objection. I think it should be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BIDEN. Mr. President, I will cast my vote because I do not think busing is a worthwhile concept. However, my vote is a reluctant one became I am not sure this is the proper vehicle on which to attach a busing amendment. Basically, the text of the committee and House amendments both states that no funds in this bill may be used for busing for desegregation purposes. However, it is my understanding that none of these funds can be used for busing anyway. Consequently, we are somewhat engaging in a charade.

What is important about this vote is that it is a demonstration on the part of Congress that at least some of us feel that busing is no longer a viable principle—if it ever was. Recent studies and articles have indicated, at least preliminarily, that it often creates more problems than it solves.

Furthermore, Mr. President, this vote reflects a frustration on the part of many Members of Congress, who oppose busing, yet strongly favor civil rights and equal educational opportunity—and who are looking for a resolution of this problem that is both fair and constitutional.

Some proposals which have come before us, such as the Gurney amendment which would have restricted the right of courts to order busing, are not only clearly unconstitutional, but strike at the very heart of our system of government. And 500 law professors commented, arguing that it was unconstitutional, as did every law review article on the subject. Even the late Alexander Bickel, one of the most respected constitutional lawyers in the country, and a strict constructionist, stated:

Much as I agree that the courts have gone substantially wrong of late in administering the rule of Brown v. Board of Education, and have created a problem which is, in the magnitude, not unlike the one they propose to solve, I deplore as much more destructive the attempt to work such a reallocation of powers between Congress and the Supreme Court.

I concur with the sentiments of Professor Bickel. I took an oath to uphold the Constitution—an oath which I intend to obey. I will not join those Senators who disregard that oath to vote for an "anti-busing" proposal because of political expediency.

Other proposals have come before this body which cut off funds for certain busing plans. When such proposals have been constitutional and would be effective, I have supported them.

Frankly, Mr. President, I am searching for a solution. So are many of the people of Delaware with whom I talk, both black and white. The overwhelming majority of my mail on this subject is neither racist nor irrational. Rather it is an effort by concerned people to find a way to solve a problem which will allow equal educational opportunity for all without creating a hardship which busing brings.

I, too, am committed to that end. It seems clear that busing has not proved to be the answer to equal educational opportunity. It is time we found another approach.

Mr. President, in this regard, I would like to bring to the attention of my colleagues a recent editorial in the Wall Street Journal. The editorial cites the preliminary findings of Prof. James S. Coleman's new study. You will recall that his 1966 study on educational opportunity pointed out many of the problems caused by inequality in our schools. In his latest study, the Journal reports that he has found:

Forcing integration on a community through busing . . . can be harmful and overlooks the question of whether there are going to be any educational benefits. When the will for integration does not exist . . . "the imposition of it by the courts does not make it successful."

Mr. President, I commend the Wall Street Journal editorial to the attention of my colleagues and I ask unanimous consent that it be printed in the RECORD.

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

[From the Wall Street Journal, May 20, 1975]

PUBLIC POLICIES AND IDEALISM

"As a practical matter we are now busing black children from predominantly black schools to other predominantly black schools." So said a superior court judge who, five years after ordering busing for Inglewood, Calif., recently allowed that city to discard its busing program. Meanwhile, the plan cost $300,000 and enrollment in the 17 district schools went from 60% white to 80% minority. Some people still claim that busing failed in Inglewood because of half-hearted enforcement efforts, but that seems to be largely wishful thinking.

There appears to be growing understanding that busing is flawed in both execution and conception, although it's not always easy to convince everyone of that. For example, a federal judge recently ordered busing of some 21,000 Boston school children to achieve compulsory integration in that city. But busing is nonetheless losing its attraction even among longtime enthusiasts, who are also coming to understand its implications.

Philadelphia educational officials were reportedly astounded several months ago at the results of a two-year federal study contradicting arguments stressing the need for integration. Those results bear directly on the busing controversy because the state Human Relations Commission directed Philadelphia school officials to seek total integration, which presumably can only be accomplished through massive busing. Yet the study found that while black and white pupils seem to learn better in integrated grade school classes, when black students reach junior high they benefit more from the presence of a black majority.

Even more damaging to the probusing argument is the recent statement by sociologist James S. Coleman, whose 1966 report on equal educational opportunity is often cited to justify busing for purposes of integration. Professor Coleman recently reported that busing in Northern cities has failed to achieve the main goal of better education for the underprivileged, and may even be condemning future black children to even greater racial isolation than before.

Forcing integration on a community through busing, he said, can be harmful and overlooks the question of whether there are going to be any educational benefits. When the will for integration does not exist, Professor Coleman observed, "the imposition of it by the courts does not make it successful."

Instead, court-ordered busing to advance integration often results in large numbers of middle class whites fleeing to the suburbs, taking their property tax payments with them and further impoverishing city schools. "White flight" can be caused by factors other than school busing, of course, as witness the exodus of middle class refugees from New York City's crushing tax burden. But few policies are as likely to produce white flight as forcibly busing children to schools in unfamiliar and possibly dangerous neighborhoods.

We do not for a moment believe that the opposition to busing means that the American people cannot create a viable multiracial society. This society over the past 20 years has swept aside racial barrier after racial barrier. Surely racial prejudice still exists, but much of the bitter opposition to busing, and much of the white flight, is a response not to the mixing of races but to the mixing of economic classes. Such opposition, natural for any parent who desires upward social mobility for his children, is made all the more bitter when busing is ordered and supported by judges and opinion leaders whose own children are well insulated from the lower classes.

Beyond that, we think that much of the opposition to busing reflects the reasons for our own opposition to it, which is not practical but moral. Busing inevitably implies racial quotas, and that is not the kind of society we want to create. We can create a society with equality of opportunity, regardless of race. When we fully succeed, there will not be the same number of blacks in every school, any more than there are currently the same number of Italians, Jews or Chinese.

When we do succeed in creating that kind of open, multiracial society, we will have a far better society than one in which blacks are condescendingly doled out by numbers. We think that this is something the American people understand far better than many of their judges and opinion-leaders.

The PRESIDING OFFICER. The question now recurs on the committee amendments. No vote can come until 12:30.

Mr. McCLELLAN. Mr. President, the bill is open for amendment. All the committee amendments have been adopted except those that were reserved or ex-

empted from the unanimous-consent request, and they are to be voted on at 12:30 or thereafter.

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.

Pursuant to the previous order the Senate will now proceed to a vote. The yeas and nays have been ordered. The question is on agreeing to the committee amendments with reference to sections 304, 305, and 306.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. Will the Chair state what we are voting on?

The PRESIDING OFFICER. On agreeing to the committee amendments relating to sections 304, 305, and 306.

Mr. STENNIS. Another parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. That is the one that relates to the matter of busing, use of money for busing; is that right?

The PRESIDING OFFICER. The Chair would not interpret the sections. They are on pages 72, 73, and 74 of the bill.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. A vote "aye" sustains the position of the committee.

The PRESIDING OFFICER. That is correct.

Mr. McCLELLAN. A vote "no" would be against it.

The PRESIDING OFFICER. That is correct.

Mr. PASTORE. That is correct.

The PRESIDING OFFICER. That would restore the House language.

Mr. SYMINGTON. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. SYMINGTON. Does this vote involve in any way Locks and Dam 26?

The PRESIDING OFFICER. The Chair is informed that it does not.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate.

The PRESIDING OFFICER. Will all Senators take their seats. Those standing here will please refrain from conversation.

The clerk may proceed.

The legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. Will the Senate please come to order. The clerk will suspend. Will the Senators take their seats and will the staff members refrain from conversation.

The clerk may proceed.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER), is absent on official business.

The result was announced—yeas 51, nays 38, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—51

Abourezk	Hathaway	Packwood
Bayh	Humphrey	Pastore
Bellmon	Jackson	Pearson
Brooke	Javits	Pell
Bumpers	Leahy	Percy
Burdick	Magnuson	Ribicoff
Case	Mansfield	Schweiker
Clark	Mathias	Scott, Hugh
Cranston	McClellan	Stafford
Culver	McGovern	Stevens
Eagleton	McIntyre	Stevenson
Glenn	Metcalf	Symington
Gravel	Mondale	Taft
Hart, Gary W.	Montoya	Tunney
Hart, Philip A.	Moss	Weicker
Haskell	Muskie	Williams
Hatfield	Nelson	Young

NAYS—38

Allen	Eastland	Nunn
Bartlett	Fannin	Proxmire
Beall	Fong	Randolph
Biden	Ford	Roth
Brock	Garn	Scott, William L.
Buckley	Goldwater	Sparkman
Byrd, Harry F., Jr.	Hansen	Stennis
Byrd, Robert C.	Hartke	Stone
Cannon	Hollings	Talmadge
Chiles	Hruska	Thurmond
Curtis	Huddleston	Tower
Dole	Johnston	
Domenici	Laxalt	
	McClure	

NOT VOTING—10

Baker	Helms	McGee
Bentsen	Inouye	Morgan
Church	Kennedy	
Griffin	Long	

So the committee amendments with reference to sections 304, 305, and 306 were agreed to.

Mr. BAYH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Will the Senator suspend?

Will the Senate please come to order and Senators take their seats?

The Senator from Indiana.

Mr. BAYH. Mr. President, I have sent an amendment to the desk which I request the clerk to read.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 18, line 10, strike "$1,323,000" and insert in lieu thereof "$1,840,000".

Mr. BAYH. Mr. President, I have discussed this amendment very briefly with the chairman. Let me, for the benefit of the Senate, quickly point out——

The PRESIDING OFFICER. The Senator will suspend for just a moment.

Will the Senate please be in order? The Senator from Indiana deserves our respect.

The Senator may proceed.

Mr. BAYH. Mr. President, this amendment will restore to the level of the budget request the $717,000, funds which have been requested for the Railroad Retirement Board to process the increased workload created by Public Law 93-445 which took effect on January 1 of this year. That law, passed late last year, provided for a complete overhaul of the Railroad Retirement Act of 1937 to correct deficiencies in the Railroad Retirement System and to insure more effective coordination between the Railroad Retirement Act and the Social Security Act. This is necessary because of the large number of workers who, prior to retirement, come under the jurisdiction of both retirement systems. Enactment of the Railroad Retirement Act of 1974, which I fully supported and which received the strong support of the Senate, was essential to restoring the Railroad Retirement System to a sound financial footing.

Achieving this important objective, however, has substantially increased the workload of the Railroad Retirement Board, thus necessitating this budget request for supplemental appropriations for salaries and expenses in fiscal 1975.

The House and the Senate Appropriations committee allowed only $200,000 of the requested $717,000. In the case of the Senate Appropriations Committee, and its Subcommittee on Labor-HEW on which I am privileged to serve, there was a valid reluctance to provide the requested appropriations since the Railroad Retirement Board had already begun to fill the positions for which it was seeking funds. Not only had the Board begun to fill the positions in the absence of appropriated funds, it had also failed to provide the committee with proper notification under the Anti-Deficiency Act. For this reason the committee was reluctant to appropriate the requested funds, lest that be viewed as tacit approval of the premature commitment of these funds by the Board.

Then, subsequent to the time the pending bill was reported from committee, the Railroad Retirement Board and the Office of Management and Budget finally provided appropriate notification to the committee. It is on this basis, full compliance with the law that heretofore had been lacking, that I offer this amendment to increase the $200,000 approved by the committee by $517,000 to bring it up to the $717,000 budget request.

I do so, Mr. President, not out of concern for the bureaucrats at the Railroad Retirement Board. Rather I do so out of concern for the retirees and future retirees whose well-being is dependent on the effective implementation of the Railroad Retirement Act of 1974. There is no doubt that this legislation did significantly increase the workload of the Railroad Retirement Board, and to make certain that the Board properly delivers services to those who need them, and to guarantee that the congressional intent in revising the Railroad Retirement

Act is implemented, I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I understand there is a budget request for this amount. If there is, I have no objection.

Mr. MAGNUSON. I have no objection, but I want to reiterate that I hope they will not do this again. We were reluctant to put this money in but the Board went ahead and filled these positions without any authority whatsoever. That does not sit very well with us. But the people involved are important, so I believe we should accept the amendment.

Mr. BAYH. Mr. President, I may say to the distinguished subcommittee chairman that I think he, our subcommittee, and the full committee were completely within our rights to deny this full appropriation when we considered it at the subcommittee and the full committee level. OMB and the retirement board had ignored the law and had refused to notify us of the policy they were following. But I believe they now have the message because of the action we have taken and I hope they will not do it again. I do not think they will because we have told them that we will not go along with them unless they adhere to the law.

Mr. McCLELLAN. Mr. President I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLELLAN. Mr. President, I call up an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 71 between lines 19 and 20, insert the following:

DIVISION OF EXPENSES

The sums appropriated herein for the District of Columbia shall be paid out of the general fund of the District of Columbia, except as otherwise specifically provided.

Mr. McCLELLAN. Mr. President, this language is standard in all District of Columbia appropriation bills and is already included in chapter 3 of the bill on page 5 in connection with the other district of Columbia appropriations. It is just a technical amendment. I ask that it be accepted.

Mr. YOUNG. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PHILIP A. HART. Mr. President, I call up my amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. PHILIP A. HART. I ask that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 23, immediately below line 2, insert the following:

5. Notwithstanding paragraph (3) of section 105(e) of the Legislative Branch Appropriations Act, 1968, as amended, two employees of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities may be paid at the highest gross rate provided in subparagraph (A) of such paragraph, and 11 employees of such Committee may be paid at the next highest gross rate provided in such subparagraph.

Mr. PHILIP A. HART. Mr. President, I am offering this on behalf of the Senator from Idaho (Mr. CHURCH) who is unavoidably detained. It bears on an authorization to the Senate Select Committee on Intelligence Activities. This committee, which is due to report to the Senate by September, asks permission to increase from 4 to 11 the personnel that would otherwise be limited by the Reorganization Act in salary. The reason is in order to get senior personnel on this short-term commitment the committee finds it necessary to offer these higher salaries. But the amount that is now appropriated for the committee is sufficient to permit the employment of the personnel at the higher levels.

Mr. PASTORE. Will the Senator yield?

Mr. PHILIP A. HART. I yield.

Mr. PASTORE. What is the salary?

Mr. PHILIP A. HART. $35,636. But the authorization to engage more than the present statutory limit at that salary can be paid within the appropriation already made available.

Mr. PASTORE. But the top salary will be the $35,000?

Mr. PHILIP A. HART. No. Two would be at $37,050.

Mr. PASTORE. Those are the salaries that we pay for committee staff members, too, are they not?

Mr. PHILIP A. HART. I am advised that both of these figures are the figures allowed standing committees as of now.

Mr. McCLELLAN. Will the Senator yield?

Mr. PHILIP A. HART. If I understand correctly, this amendment will authorize the select committee to employ 2 people at $37,050 annually, 11 at $35,636, and the others would be not higher than $33,975.

Mr. McCLELLAN. What this amendment does is to authorize 11 at $35,636. Is that correct?

Mr. PHILIP A. HART. A total of 11 rather than the 4 which otherwise would be the limit.

Mr. McCLELLAN. In other words, the 4 is part of the total of 11?

Mr. PHILIP A. HART. That is correct. In effect, if the amendment were agreed to, there would be seven more who would be authorized to be engaged at the figure of $35,636 rather than four.

Mr. McCLELLAN. It seems to me that is a pretty big staff. This is a pretty delicate job, if we are going to do it. They may need them; I do not know. Has the chairman of the Legislative Subcommittee examined this amendment?

Mr. HOLLINGS. Yes, Mr. Chairman, I have. If the Senator will yield, it does not add an additional amount to the appropriation, but it does give the needed authorization. We approve of it at the subcommittee level.

Mr. McCLELLAN. As I understand it, there are no additional funds at the moment.

Mr. HOLLINGS. That is correct.

Mr. McCLELLAN. But it does mean an additional amount will have to be appropriated hereafter, I am confident.

Mr. HOLLINGS. Not if the committee completes its job in the assigned time. The resolution has already been approved and this should help the committee to complete its work this year.

Mr. McCLELLAN. If it is completed within the time and within the funds now appropriated to it.

Mr. HOLLINGS. That is correct.

Mr. PHILIP A. HART. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 13, line 22, after "$236,493,000" insert the following: ", to remain available until August 15, 1975".

Mr. BROOKE. Mr. President, this amendment would provide additional time for the Department of Health, Education, and Welfare to allocate funds for the emergency school aid program contained in this bill.

Both the House and the Senate bills provide for the funds to remain available through June 30, 1975. My amendment makes the funds available until August 15, 1975.

I believe the additional time is needed to assure that the award of the substantial amount of money that will be appropriated for this program is done in an orderly and efficient manner.

The emergency school aid program consists of formula grants to all states, as well as a number of special project grant programs, such as bilingual education and educational television.

In each case, applications must be submitted, reviewed and approved before funds can be allocated. In some instances the applications may be defective or weak and are sent back to the State for improvement. The Department sets aside about 20 percent of its funds to take care of applications which must be resubmitted.

This process took 4 months to complete last year. This year HEW is expecting up to 2,000 applications, which may set a new high for the program.

Even assuming this bill, the Second Supplemental Appropriations Act, is signed into law in the next few weeks, we still are asking HEW to do months of work in only a few weeks. It is unreasonable to expect this.

Extending the availability of the ESA funds through August 15, 1975 will provide the Department the time it should have to review, and act upon, all grant applications in a careful, efficient manner.

Mr. President, I have discussed this amendment with the distinguished chairman of the Appropriations Com-

mittee, and it is my understanding that he will accept this amendment, as will the distinguished ranking member of the Appropriations Committee, Senator YOUNG.

Mr. McCLELLAN. Mr. President, I understand that this amendment would not increase the appropriation. It would only extend the time in which the money is made available.

Mr. BROOKE. The Senator is correct. There is no additional appropriation. It is just a time extension.

Mr. McCLELLAN. I have no objection. I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

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

Mr. McCLELLAN. I yield.

Mr. BARTLETT. I believe the Senator from Arkansas is aware that currently pending before the Senate Commerce Committee is S. 1306, a bill that would provide for a $100 million loan for the Rock Island Railroad. I believe he is aware that two-thirds of this money would be spent on rehabilitation and maintenance of principally the railroad itself on the Rock Island routes. Included in the supplemental appropriations bill before the Senate is $700 million earmarked for railroad improvement and employment.

I ask this question of the distinguished chairman: Was it the committee's intention that a portion of this money be used for the railroads that might have difficulty in obtaining private financing? Specifically, is it anticipated that any of this money will be available for the Rock Island's use?

Mr. McCLELLAN. Mr. President, the committee report on this bill, on page 99, states as follows:

> The combined use of these funds for labor and materials will make the program available to all railroads including the bankrupts and near bankrupts. For example, the Committee expects the funds to provide railroads such as the Rock Island and Chicago and Northwestern with critical resources to repair and upgrade many of their routes.

This is the intention of it. I think everyone familiar with this appropriation is fully advised. We discussed it many times.

Mr. BARTLETT. Mr. President, will the the Senator yield for another question?

Mr. McCLELLAN. I yield.

Mr. BARTLETT. The Senate passed, I believe on May 16, S 1730, the authorization bill, the Emergency Rail Transportation Improvement and Employment Act, by a vote of 67 to 10. Is that correct?

Mr. McCLELLAN. Yes. This measure was approved by an overwhelming majority of the Members of the Senate.

The authorizing legislation represents an excellent example of cooperation between Senate committees to provide prompt action on pressing national railroad problems. In this case, unemployment and deterioration of essential rail services, the authorizing legislation represented the joint efforts of the Committee on Public Works, the Commerce Committee, the Committee on Labor and Public Welfare, and the Committee on Appropriations.

The situation of the Rock Island Railroad was brought before the hearings on the authorizing legislation. I presented a statement in support of the authorizing provision.

Mr. BARTLETT. I thank the distinguished chairman.

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

Mr. McCLELLAN. I yield.

Mr. JAVITS. Mr. President, I thank Senator McCLELLAN and the committee for the very constructive action taken on education respecting alcohol and drug abuse, by providing $4 million for this program. Its importance is emphasized in such an excellent way. I know of Senator McCLELLAN's interest, inasmuch as I served with him on the Committee on the Judiciary for some years; and I just wanted to express my great appreciation.

I wish to call attention to two other points in the report. One is of a parochial character, relating to Lake Champlain, one of our very beautiful lakes in New York, for which I express my appreciation to the committee.

Also, I applaud the fact that the committee included the money, which the House did not, for emergency food and medical service. The committee recognized with fine perception exactly where this is needed for Americans who were lost in the shuffle. The $30 million the committee recommended, with its development of unique and special mechanisms to counteract conditions of starvation and malnutrition among the poor, will go a long way toward aiding these Americans cut off from the mainstream. They are native Americans in many cases, who, because of language, ethnic background, and other difficulties, are lost in the shuffle. This was meant to reach them.

Finally, I raise a point to which I know the answer, but I think it will be useful to have it in the record. The $700 million for maintenance of way, for which we passed the authorization bill the other day. It was eliminated in conference on the Emergency Job Appropriations Act. It is now included in this bill.

Do I correctly understand that there really is no basic difference with the House, except that they did not wish to appropriate in the previous bill when we had no authorization as yet?

Mr. McCLELLAN. The House opposed it vigorously in the other bill, one reason being that there was no authorization. I cannot advise the Senator what position the House will take with respect to this provision. But we do have authorization legislation now, insofar as the Senate is concerned, and this would have to have House authorization before the money could be spent. Hopefully, the Senate will take some favorable action.

I regret that it is necessary to try to remedy the railroad problems in this country by this kind of effort. We would all rather see an overall policy with respect to the rail transportation system, and hopefully that will come about sometime soon.

In the interim, we have railroads that are deteriorating and that should be preserved. This will serve not only to help rehabilitate those railroads and keep them from deteriorating further, but also, if we are permitted to enact this provision and to make this appropriation, it will serve to put many people back to work in the maintenance crews—people who were laid off because of inability of the railroads to pay for their labor.

It has a twofold purpose. It would help to strengthen or to restore the facilities that are essential to railroad services. Also, it would have the effect of putting many people back to work. Considering what the conditions are today, especially the heavy unemployment in this country, I think this is a good approach, under the circumstances.

Mr. JAVITS. Mr. President, I thank the Senator very much. It is an excellent approach in this time of severe unemployment, when we are authorizing public service jobs. This is a remarkable effort to deal with this problem with the private sector—railroads are private enterprise, though regulated—especially where it meets such a vital national need.

I see Senator RANDOLPH on his feet. With me and others, he was the author of the authorizing legislation.

I hope very much that the House will recognize that this is a way in which we are trying to convert to real usefulness the concept of public service jobs. I hope very much the House will help us to do it.

Mr. President, I am pleased to see the actions taken by the Senate Committee on Appropriations on May 14 in reporting the Second Supplemental Appropriations Act for fiscal year 1975 (H.R. 5899). I would like to commend the chairman of the committee, Mr. McCLELLAN, and the chairman of the Subcommittee on HEW-Labor Appropriations, Mr. MAGNUSON, as well as the other members of the committee who supported the actions taken by the committee.

I was gratified to see the committee recommendations in regard to the Community Services Administration. On March 4, I appeared before the Subcommittee on HEW-Labor Appropriations in regard to the funding requested by the Community Services Administration, CSA.

The CSA is the successor to the Office of Economic Opportunity which was enacted into law under the Economic Opportunity Act of 1964, as amended by the Headstart, Economic Opportunity and Community Partnership Act of 1974. This Agency, in a multitude of programs with various approaches, funds community action agencies. This provides local communities a voice in their own destiny in dealing with the problems of the poor.

I was pleased to see that the committee recommended $500 million for the operation of the Community Services Administration in fiscal year 1975. This is an increase of $46 million over the $454 million currently authorized under the continuing resolution, and an increase of $45 million over the House allowance of $455 million.

This level of funding for the programs

will meet the basic needs of the Community Services Administration. The $330 million, which was the budget request for the community action agencies, will enable the 881 community action agencies to continue to operate at their current expenditure level.

Various other programs earmarked by the committee demonstrate the various programs which help the poor and disadvantaged of all ages. An example is the senior opportunities and services program, for which the committee has recommended $10 million. This program is designed specifically to identify and meet the needs of the elderly poor. It involves the development of new employment, volunteer and referral services, and the creation of additional services and programs for the elderly poor.

The committee recommended $30 million for the emergency food and medical services program, which I had requested in my testimony before the subcommittee. The House made no provision for this program and there also was no budget request for it. This program, which has shown a marked success in assisting local communities to counteract conditions of starvation and malnutrition among the poor, with distinct and unique approaches to special groups of individuals who are presently isolated from the mainstream of America life and opportunity. In the past, this program has developed unique and special mechanisms for migrant and seasonal farmworkers and Native American groups, and I commend the committee for recommending that $4.5 million be set aside for these Native Americans.

In its recommendation for $19 million for the emergency energy conservation services program under section 222(a)(12) of the Economic Opportunity Act—which I authored—an increase of $10 million over the House allowance, the committee has made a valuable start in providing such services as emergency loans and grants, special fuel voucher and stamp programs, to establish a winterization program for the poor.

While this first approach will not solve all the problems of winterization it is a first step. This appropriation will help the CSA to continue its energy related programs which it has begun from local initiative and other general appropriations following the pattern of Project FUEL in the State of Maine. It is clearly advisable to expand these efforts under section 222(a)(12) of the Economic Opportunity Act of 1964, as amended. It represents an approach dealing directly with the poor and economically disadvantaged, and has been successful. I also would like to commend Senator MANSFIELD on his proposal to establish a national energy center. This center would enable CSA to develop new winterization programs, and to coordinate the programs already in existence.

I hope the Senate will consider making available additional funds which the administration and the Community Services Administration believe can be effectively utilized. It is believed that this would be an amount of $64 million, which I requested in my testimony before the subcommittee.

Joined by 18 Senators, who wrote the President on February 20 and the committee on February 25, we had pointed to needs in terms of pending or expected applications before the Community Services Administration totaling $14 million. The Director of the Community Services Administration, Mr. Gallegos, in testimony before the Subcommittee on HEW-Labor Appropriations, stated that $64 million of that amount could be effectively utilized in this fiscal year.

Lastly, Mr. President, I wish to commend the committee for its recommendation of $452 million for the Headstart program. This program, which is celebrating its 10th anniversary this year, has shown remarkable growth and success. In its detailed report, the committee has recommended an increase in the appropriation to $452 million, $37.7 million over the budget request, and $22 million over the House amount. The 334,000 children that participate in this program, either throughout the year, or in the summer Headstart program, readily attest to the vital need and interest in this program. With this increased appropriation, the goal of providing a more adequate level of support for 35,000 handicapped children enrolled in Headstart will be realized. The early recommendation of this increased figure has made available the additional sum in time for the 1975–76 school year when it will be most needed.

Again, Mr. President, I wish to commend the chairman of the committee, and all of its members.

Mr. McCLELLAN. I yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I am appreciative that the able manager of the pending appropriations bill has given us the opportunity to comment on the approval of the program to rehabilitate our railroad system at the point of need, the roadbeds that have deteriorated for a period of several years.

I am grateful, as always, to the senior Senator from New York (Mr. JAVITS), who addresses himself very accurately to this subject matter. Several Senators have given special attention to this problem and we have tried within the Committee on Labor and Public Welfare and the Committee on Commerce to bring a measure from the authorization standpoint which followed the appropriation brought by the Senator from Arkansas (Mr. MCCLELLAN) to the Senate Chamber. In doing so he is indicating his knowledge of the deficiency in our roadbed situation, and acting even before the formal legislation authorizing certain guidelines in connection with this work.

I shall not overemphasize the problem, except to indicate that what the chairman is completing, hopefully, here today will serve a double purpose. That is, to give employment to many thousands of maintenance-of-way workers who have been separated from their employment by railroads throughout the country. Also, there will be added opportunities for workers other than those who were furloughed to be gainfully employed. Certainly, in a period of unemployment, this is a very real need.

Second, the deterioration of the roadbeds has brought a situation where freight, for example, has had to be moved very, very slowly. We have had coal trains that are cut to 10 to 15 miles per hour because of the condition of the tracks. In the movement of many products, there have been slowdowns because of neglected trackage. I do know of cases, and I do not attempt to dramatize, where there were persons actually walking in front of the locomotive as the train would move slowly with freight.

We also understand that there is a need to rebuild the faith of the American people who are passengers on our rail lines that they can travel with safety between those cities that compose the network of railroads in this country.

Mr. PASTORE. Will the Senator yield?

Mr. RANDOLPH. Yes, I yield.

Mr. PASTORE. As a matter of fact the irony of pushing this new philosophy of converting to coal because of the paucity of petroleum products is that we find now that, even if we do want to convert, we cannot get the coal up there because the roadbeds will not permit it.

Mr. RANDOLPH. The able Senator from Rhode Island has indicated one of the problems with which we are faced. I have heard persons say, "I am afraid to ride a certain train because I am told that the rails, the roadbed, are not in satisfactory condition." I do not try to alarm in this matter. The able Senator from Arkansas would not try to alarm the would-be passenger. But we really feel that there are thousands of persons who would be riding trains now if they felt that those trains were operating over rail systems where the deteriorated trackage had been rebuilt. So I commend the Senator and his colleagues of the Committee on Appropriations and those of the authorizing committees who have worked with us from the standpoint of this very important item. Both of the able Senators from Indiana, Senator BAYH and Senator HARTKE, have been productively involved in this effort.

Mr. McCLELLAN. Mr. President, I agree with the statement of the Senator from West Virginia because he has been most accommodating and cooperative in this problem. He has moved his committee expeditiously with the legislation and it is necessary now to give us the authorization and the support in appropriation.

I agree with everything that the Senator has said. Ultimately, this Government is going to have to bail out the railroads, going to have to spend a lot of money in this situation. By spending some now, we not only put people back to work who have been separated from their jobs in this period of time when we are hunting ways to give people jobs and increase employment in the country, but we decrease unemployment. It is just the practical thing to do. As we spend the money now, properly, and do it in a practical way, we will prevent further deterioration that is going to cost more when we get to an ultimate, overall plan and program in this railroad problem.

I point out, too, that we have a lot of money in these bills that we have already passed for public service jobs. I am not opposing them as such. But in this kind of job, where men go out and, by

the sweat of their brows, construct something and do that hard work, we are getting something for the money we are paying. These are not legislated jobs, something that we just do to create employment. There is need for the employment and the job is there. Is it a question of filling the job.

I yield to the distinguished Senator.

Mr. RANDOLPH. It is correct that the Senator draws our attention to public service and public works jobs in this context. I have supported public service jobs. But I do feel that with the public works job—be it, as in this instance, rebuilding roadbeds, or other types of public works projects—one job leads to another job, creates another job. Some of these will be in supplying materials, you see, because a portion of this appropriation is for materials needed for rail rehabilitation activities.

Then, as the Senator has indicated in other words than I shall use, a lasting benefit, at least a very permanent contribution, has been made to the strength of the country.

I call attention because the Senator from Connecticut is on the floor. Does Senator RIBICOFF know of the Boston and Maine Railroad? Of course; it is in New England. In that instance, Mr. John Dustin, the president, had to tell us in the committee hearing that he had to lay off 400 good maintenance-of-way workers from that company. In so doing, he realized that there would be a further deterioration of the roadbeds. Yet it had to be done because of the recession and because of the need to cut the overall costs of the operation of the company.

I do not go into details about that particular company and I know very little about its financial structure. But I do know that there are 400 maintenance-of-way workers who are not employed. In that instance and in hundreds of instances throughout the country, those persons, by the very authorization, legislative intent, and then the money, are given the opportunity—the furloughed workers, first of all—to be reemployed because, as the Senator from Arkansas well understands, they do know this business. There will be others, of course, that will join them in the work of rebuilding the roadbeds.

Mr. McCLELLAN. In other words, to be restored to that job that they had and are familiar with and that is needed.

Mr. RANDOLPH. That is correct. They have the preference in employment.

Mr. McCLELLAN. I thank the Senator.

Mr. RANDOLPH. I thank the Senator very much.

Mr. BAYH. Mr. President, will the distinguished Chairman yield?

Mr. McCLELLAN. Yes. I yield to the distinguished Senator.

Mr. BAYH. Mr. President, I listened with a great deal of interest and approval to the colloquy among the distinguished committee chairman, the Senator from West Virginia (Mr. RANDOLPH), and the Senator from New York (Mr. JAVITS).

There does not need to be a great deal of discussion surrounding this supplemental appropriations bill. I remind our colleagues of the tragic plight of the Nation's economy. We have discussed that at frequent intervals. I think most of us recognize there is no magic formula for that.

I remember becoming involved in the activities of our distinguished chairman of the Committee on Public Works, as we tried successfully to get the impounded highway funds and the impounded water pollution funds released so that those funds could go back, not really as public service jobs, but in the private sector to provide services that were needed by the people and to get that started.

As the chairman of the Subcommittee on Transportation Appropriations, it was my good fortune to introduce this particular $700 million feature that the chairman of the full committee enthusiastically joined, and he was one of the major movers in this area.

We had this same amendment in the jobs bill. We were not able to convince the House to accept it, at least partially because the authorization legislation had not been forthcoming.

Because of the work of the Senator from West Virginia and others on the Committee on Commerce, now we have authorized this at the Senate level, and so we felt we could come back and try it again.

I will add one word of comment to the discussion so far. Unless we are willing or able to convince our brothers and sisters on the other side of the Capitol dome to get off the dime on this, our labor is going to be for naught.

The railroad system of this country is in a deplorable condition. Nobody here needs to be reminded of that. We are not going to solve the railroad problem by the passage of this one amendment.

I say that I think this is a first step. It is an immediate step that can start putting people to work, as has been described here, to accomplish two things:

First, to provide jobs and, second, to provide something that is of lasting benefit, through the private sector, that will remain after the money has been spent.

But I think it is important for us to recognize that this in no way is inconsistent with some of the ideas of the trust fund and some of the other well-intentioned and meaningful programs, that other people have in mind, that are necessary for a long-range solution to the railroad problem.

Mr. McCLELLAN. Mr. President, will the Senator yield at this point?

Mr. BAYH. Yes.

Mr. McCLELLAN. That is except to help keep the trains running until we do get approval.

Mr. BAYH. Yes.

I am concerned that there is this little bickering developing among certain Members of the House of Representatives, and I do not want to impugn their motives, with the resulting feeling if they go along and say we are going to hire 35,000, 45,000, or 50,000 rail workers and maintenance workers, to start putting these tracks back in workable condition, this is going to foreclose them from coming along with a long-range, more permanent solution.

That is not the purpose of this. This is designed to get us started now when people are unemployed, and certainly the work that would be done now is work that is not going to have to be done by whatever the long-range solution to the problem is.

So I hope that our colleagues in the House of Representatives will recognize that this is important only as a first step. It is not a final answer. It is not a panacea. But it is extremely important.

I appreciate the leadership in the authorization area that has been provided by the Senator from West Virginia. I am glad to have been a small cosponsor of that bill, which is extremely important.

Mr. McCLELLAN. I thank the distinguished Senator from Indiana.

LEGISLATIVE BRANCH ITEMS IN THE SECOND SUPPLEMENTAL APPROPRIATIONS BILL

Mr. HOLLINGS. Mr. President, the committee has added a comparatively small amount of money to the second supplemental appropriations bill for the legislative branch above the amount approved by the House of Representatives.

As the bill came from the other body, it contained $9,584,329 for program items under title I and $12,451,270 for increased pay costs under title II. The committee has added $266,549 for four Senate program items and a net increase of $884,825 for the increased pay costs relating to Senate items including those under the Architect of the Capitol. It is a pleasure to report that the Senate is able to absorb $3.2 million of the more than $3.8 million that was budgeted for these increased pay costs, and that the legislative branch as a whole absorbed 23 percent of the amounts originally estimated.

The Senate program items that we added included: First, $75,050 for the Appropriations Committee primarily to meet additional workload imposed by the Budget Reform Act; and second, $26,274 for additional clerk hire for the Senators from Texas since the provisional population estimates now place the State of Texas into the 12 million population category; and $225 for the costs during the remainder of this year of a $900 annual increase in the stationary allowance of the Vice President.

The other Senate program item is $165,000 for the first 13 months rental of an upgraded Senate computer. This upgrading is necessary to provide a Senate-wide network which will provide terminals in each Senate office so that the Senators will have advantage of a congressional legislative information system. This system, which the subcommittee expects to be fully operating in 1 year, will provide all of the data now stored in the retrieval systems of the House of Representatives and the Library of Congress. The Senate system will feature easy access via only one terminal to information that presently can only be secured by the use of several terminals. In addition to the legislative assistance, the upgraded computer will enable the programing of a microfilm index system that will enable Senators to quickly retrieve their correspondence, legislative

position papers, press clippings, and et cetera.

The committee has also added an administrative provision that would allow Senators to lease one mobile office from the funds provided for the rental of State offices. As the Senate will recall, Senator DOLE introduced S. 699 on behalf of himself and 30 other Senators to provide mobile offices to Senators. This bill was referred to the Appropriations Committee. We went into this matter thoroughly, and the committee determined that instead of having the Sergeant at Arms provide the mobile office as stipulated in the bill, we would authorize the Senators to make a lease and be reimbursed out of the contingent fund for the lease and operating costs of a mobile office. There will be no increased costs to the Senate for the mobile offices as the costs must come out of the amounts previously provided in the regular bill for home State offices.

We have written into the bill restrictions on the operation of the mobile offices that they will be used only in the Senators home State; the requirement of a minimum of $1 million in liability insurance on the vehicles; suitable identification of the mobile office; and that no Senate reimbursement be made to a Senator for lease or operation of the mobile office within 60 days of a contested election in which the Senator is candidate.

The committee also recommends concurrence with the House of Representatives in the amounts provided for several joint items, and appropriations totaling $3,350,000 requested by the Architect of the Capitol for testing equipment for the new Capitol security system and the higher fuel and electricity bills of the Capitol Power Plant.

DISTRICT OF COLUMBIA ITEMS IN THE SECOND SUPPLEMENTAL APPROPRIATIONS BILL

Mr. CHILES. Mr. President, the District of Columbia requested the remaining $8.8 million of the authorized Federal payment for fiscal 1975, and the appropriation of $52,800,500 in District of Columbia funds. The House of Representatives did not provide for these items because the budget estimates were delayed until after the bill was reported in the other body. The additional $52,800,500 in District of Columbia funds consisted of $43,105,300 to meet the unabsorbable increased pay costs, with more than $5 million of the remainder requested to offset price increases in fuel, electricity, and other energy items. There was also $1 million requested because of a short-fall in the reimbursement from the Justice Department because of a decrease in the number of Federal prisoners incarcerated in D.C. prison facilities; and $700,000 to implement the Teachers Salaries Amendment of 1974.

The District demonstrated good faith to the committee by making a straightforward presentation of this request. There is no increase in programing in this supplemental, since all of the items are mandatory in nature and are necessary to carry out the level of programing approved in the regular bill. The District will finance $44 million of the additional $52 million requested from its own resources; including $16 million through an austerity program implemented by the Mayor late last year. We do not have the situation of former years where the balance of the Federal payment was requested to be salted away for the following year's budget—these funds are required to finish out this fiscal year.

The committee went into each of these items. We directed that the District make an up-to-date review of the increased pay costs since several months had passed since they were originally estimated. As a result of this review, the Mayor informed the committee that $700,000 could be cut from the estimates due to employment not reaching the levels originally projected. In addition, we found that $100,000 of the amount requested for increased electricity costs for the Department of Environmental Services was no longer necessary. Therefore, the committee has reduced the additional Federal payment requested by $800,000 and has made reductions of the same amount in the appropriations of the District of Columbia funds.

Mr. HUMPHREY. Mr. President, I appreciate having the attention of the distinguished Chairman of the Committee on Appropriations.

Under the provisions of the Environmental Protection Agency Act, there is statutory authority for what is known as the Safe Drinking Water Act of 1974. This act was passed without any appropriations having been made.

This particular act, which was passed at the conclusion of last year, as a result of the discovery of contaminated water supplies in certain parts of our country, has two sections.

One section relates to standards for safe drinking water.

The second section relates to research and demonstration project grants to permit the testing of the most modern technology in cleansing and purifying water supply.

I rise to call the Senate's attention to a matter that is of the utmost concern to the people of Duluth, Minn.

The Reserve Mining Co. has been dumping into Lake Superior over the years what are known as taconite tailings. This is the wasted product from processing of taconite ore.

As the Senate knows, or I trust it knows, the Federal District Court has ruled that the dumping of these tailings must stop. The U.S. Court of Appeals for the Eighth Circuit, on review, has ordered that within a reasonable period of time these dumpings of tailings must stop.

In the meantime, the Environmental Protection Agency has ruled that the water that has been the source of supply for the city of Duluth is a health hazard.

There has been elaborate and extended testimony before the Federal courts on this subject.

The water is infested with what we call asbestos particles, which are cancer-producing agents. There has been testimony from competent medical authorities in the Federal courts relating to the health hazard.

So, the city of Duluth today is under order to cease and desist in the use of water from Lake Superior unless it can be properly filtered.

With present technology, the present filtration plants cannot possibly filter out these minute particles known as asbestos particles.

Therefore, what we are seeking is the use of our funds to apply the most up-to-date technology on a project and demonstration basis. The Safe Drinking Water Act of 1974 requires that any such project on a demonstration basis must be communitywide in its jurisdiction or in its coverage.

The city of Duluth is in a very serious set of circumstances. It is prepared to do anything it possibly can do, but it needs to have the new technology tried and tested.

The cost of a demonstration project is approximately $6 million. The present Safe Drinking Water Act provides for Federal assistance up to two-thirds of the cost of a project.

So that there is a need of $4 million of Federal funds.

Now, somebody might ask, "Well, why did we not get at this sooner?" The simple truth is that the act was just passed last December and, *quite candidly*, the Government has been very severe in terms of its rules and regulations, but has not been very cooperative in terms of its recommendations for funding.

The city of Duluth is prepared to do its fair share. It would be prepared to put in a whole new filtration system if it knew what kind of a system to put in and, therefore, what I would like to have the Senate consider is an amendment under the Environmental Protection Agency, on page 65, wherein we could put some funds in here to initiate this demonstration project which is authorized under the Safe Drinking Water Act of 1974.

I have talked with a Member of the House who represents this district, Congressman OBERSTAR, and I told him what I was going to try to do here, and I am convinced that if we add this in this bill, we can get a project underway and that the House membership will stand with it.

The total amount that is needed is $4 million. I am not at all sure we would need to go that far at this time. I do not want to overextend the case, but we have got to have some help.

Right now the restaurants, the cafes and the schools in Duluth, Minn., have specialized little filtration projects they are trying to use hopefully that will eliminate the asbestos fibers, but there is no proof. The medical authorities who testified in the Federal court were sufficiently persuasive so that the Federal judge ruled that it was a health hazard. So has the Federal agency.

I want to ask my good friend from Arkansas, the distinguished chairman, if he would be receptive at least in taking the matter to conference so it can be discussed more openly and fully in the conference committee of a modest amendment that would permit us to at least undertake the beginnings of a research and demonstration project on a matter of grave concern to over 100,000 people who live in the city of Duluth.

The mayor of the city—I was home this weekend—Mayor Baudin called me, talked to me; the city council members and the mayor were down here last week. I told him that I would wait until the supplemental appropriation came up to see if we could do something about it. The county commissioners have been here to see me; the head of the pollution control agency in the State of Minnesota has been here.

By the way, the State is doing its share in this matter by helping Duluth in its share of funds. In other words, the $2 million that the city of Duluth would put up in part would be put up by the State Legislature of Minnesota.

Mr. McCLELLAN. Senator, is this money authorized?

Mr. HUMPHREY. Yes, it is. The money is authorized. The authorization, Mr. Chairman, for fiscal 1975 is $7.5 million; for fiscal 1976 $7.5 million; for fiscal 1977 $10 million.

Mr. McCLELLAN. No funds have been appropriated at all?

Mr. HUMPHREY. There have been no funds appropriated because the bill passed just before we adjourned in the 93d Congress.

Mr. McCLELLAN. No part of the authorization funds have yet been appropriated?

Mr. HUMPHREY. No part of the authorization funds have been appropriated.

Mr. McCLELLAN. This comes within the jurisdiction of the Appropriations Subcommittee chaired by Senator PROXMIRE, and I would like to have his comments on it. He is on his way over, and I would like to have the matter discussed with him before I make any statement on it. I try to support my subcommittee chairmen; certainly I do not go around them, and I give them an opportunity to be heard.

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

Mr. HUMPHREY. Yes.

Mr. PASTORE. Of course, there are many other localities more or less in the same position. I quite agree there is an authorization for this. I was wondering do we have any commitment on the part of all EPA that they will undertake to do this for Duluth if they get the money?

Mr. HUMPHREY. Yes. As a matter of fact, may I say, this is a very unique situation because of the nature of the contaminating substance.

Mr. PASTORE. No, I am all for it.

Mr. HUMPHREY. The asbestos particles are what I am speaking about.

Mr. PASTORE. I am raising the point here that when you begin to designate in the law a particular locality you usually get repercussions from other localities which find themselves more or less in the same position.

Mr. HUMPHREY. I understand.

Mr. PASTORE. If you have an understanding with EPA, why do you not just put it in as a general account for EPA and then let the Senator from Minnesota work it out with EPA as to where the research will be done? I think there would be less a resistance toward it.

Mr. HUMPHREY. I understand that very well, and I am very content that this should happen.

Mr. McCLELLAN. If we should have it that way, I think the Senator should ask for the full amount this year, and that gives others an opportunity to share in it. I would be inclined to take it to conference, at least, but I would like to have an expression from the distinguished chairman of the subcommittee, and I understand he is on his way over here.

Mr. HUMPHREY. The full amount, Senator, is $7.5 million.

Mr. McCLELLAN. I rather think if we are going to do this as the distinguished Senator from Rhode Island says, do not single out one town, let us appropriate the money authorized, and let it go through the regular administrative process.

I would like to wait until Senator PROXMIRE arrives. In the meantime, I will ask for a quorum.

Mr. HUMPHREY. I want to say to the Senator that I fully concur in his suggestion. I hope he does not mind that I had a special interest in the city of Duluth. I have to go up there next week. I was up there last week. The Mayor met with me Saturday, and so did the city council.

Mr. PASTORE. If the Senator did have a special interest, no one can fault him on it.

Mr. HUMPHREY. I, therefore, propose an amendment under the section on page 65 "Environmental Protection Agency" to add on line 20 after the word "enforcement," where the figure $1,100,000 is, a new section saying "$7,500,000," or "under the terms of the Safe Drinking Water Act of 1974 for research and demonstration grants."

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum, and the Senator can prepare his amendment.

Mr. HUMPHREY. Very well.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. McCLELLAN. Mr. President, a parliamentary inquiry, is any amendment pending?

The PRESIDING OFFICER. There have been no amendments sent to the desk.

Mr. McCLELLAN. There is no amendment pending?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Mr. President——

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 17, line 16, strike out "$500,000,000" and insert in lieu thereof "$521,000,000."

Mr. KENNEDY. Mr. President, this is a very simple amendment. It provides for an increase to the community economic development programs of the Community Services Administration—title VII—of $21 million.

The community economic development programs have been really among the most successful programs to stimulate self-help and community organization in both urban and rural poverty communities.

I feel in the total review of the Office of Economic Opportunity, this section may well prove to be the most successful in reversing the patterns of poverty.

Perhaps the model for these experiments in improving the urban areas has been the Bedford-Stuyvesant program which was initially developed by Robert Kennedy and the senior Senator from New York (Mr. JAVITS). That program has made a tremendous difference in responding to community needs. And it has prompted corporations such as IBM to reinvest in the inner city and to reverse the corporate exodus from poverty areas.

The total figure that has been appropriated each of the last 3 years has been $39 million. Because of the particular needs of a hospital complex in Philadelphia, the House has increased the title VII program by some $14 million this year. But with $14 million being targeted to this hospital complex, there has been no increase in the level of funds for the community economic development program.

This would provide a very small and modest increase in this funding in an effort—verified by the program managers— to insure a bare maintenance level for these activities. The total number of programs that are seeking assistance are many, many times higher than the increase which we are requesting here today.

I know we are under a strict budgetary constraint, but it seems to me that this will be resources well expended.

The community economic development program directed by community development corporations—CDC's—in some 36 sites across the country does more than simply develop community-based businesses—although it has been successful in this area as well. Rather, it brings together all of the resources within the poverty community and provides them with the mechanism to mobilize power and resources both within and outside the community.

Capital investment funds are leveraged from the business community and from banking—institutions that normally would totally ignore the poverty area. But with the title VII assistance, the community development corporations can demonstrate they have the seed money to carry out substantial development programs.

The CDC's are now operating in 36 areas and affecting populations of more than 5 million. During their history, they have helped create more than 12,500 jobs and those jobs are filled by wage-earning and tax-paying men and women. Forty percent of these workers were unemployed prior to the CDC activity.

Some 250 businesses have been created in these areas and the CDC's in addition are providing vital services, including housing, social services, health clinics, and manpower training. In fact, in Bedford Stuyvesant alone, the manpower programs have placed some 5,000 individuals.

Obviously this program—at the level of funding it has been held to—has not reached its full potential. For the possibility exists of hundreds of CDC's in urban and rural poverty communities, 10 years from now in which there is a major impact on the face of poverty in America as a result of their activities.

The community support for this program, as I have seen in my State in Roxbury and East Boston, is substantial. They produce in a way that the community can understand—in jobs, in new economic resources, in businesses, and in social services.

And what is most impressive, the funds that we have appropriated for these programs have produced not only additional revenues through taxes, but a dollar-for-dollar match from the private investment community and from other public entities. Thus, the program has been extremely successful as a stimulator of total investment in the investment.

But we have consistently failed to provide sufficient resources to this program—particularly in the past 3 years. There has been no increase whatsoever. Yet inflation has cut directly into the potential benefits of each and every one of these CDC's and it has halted totally any hope of expanding the number of CDC's who can participate in the program.

Mr. MAGNUSON. Mr. President.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. MAGNUSON. Like the Senator from Massachusetts, I am quite familiar with this program. It has been one of the best we have ever had, but it has remained static over the years and this year's budget is also $39 million.

But there is a tendency because they have broad authority, once in a while to—I will not use the term "raid" the amount, but they do some shifting around and use it for different things.

That being the case, I inquired of the administrator and they say that they could efficiently use about $15 million.

I hope the Senator from Massachusetts will amend his amendment, drop it down to $15 million. I have conversed with the distinguished chairman of the Appropriations Committee and we will take it to conference and see what we can do with it. I think we can justify it on the programs that have been resulting, as they have been very, very successful.

Mr. KENNEDY. Mr. President, I appreciate the remarks of the floor manager of the bill.

I want to modify my amendment and do so to change the figure to some $15 million instead of the $21 million so that the total increase would be $515 million instead of $521 million in the overall appropriations for the Community Services Administration, with the understanding that this will raise the title VII Community Economic Development program appropriations to $745 million, $21 million above the Committee-approved level.

I want to just finally say that this program has been evaluated by Abt Associates, an outside consultant and it was found to be highly effective and with great potential for significantly reducing the level on poverty in the country.

Mr. President, I move to change my amendment to $515 million rather than $521 million.

The PRESIDING OFFICER. The Senator has the right. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 17, line 16, strike out "$500,000,000" and insert in lieu thereof "$515,000,000."

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

Mr. KENNEDY. I yield to the Senator from New York.

Mr. JAVITS. First, may I congratulate the Senator for convincing the Appropriations Committee of the justness of such a material increase. Second, I join with the Senator in the amendment. I am deeply gratified and thank Senators MAGNUSON, MCCLELLAN, and YOUNG for allowing it to go through.

I wish to testify personally about the oldest and the largest of these programs, the Bedford-Stuyvesant Corporation. This has been kind of a memorial to Robert Kennedy, one of its founders. Indeed, it is a model for community activities in my State and in many other States.

I can just pledge to the committee that I shall do my utmost to keep it on the straight and narrow. It does not need that pledge, but I make it anyhow in deference to the fine attitude shown by the chairman of the committee and the chairman of the subcommittee.

Mr. MAGNUSON. May I say that in the State of Washington, not quite that large, but it affects the Indians in Upper Puget Sound who would be out of work except for what little farming they do when the lumber industry is down. They do not have any jobs, but they have developed an aquaculture in the State which is just fantastic.

They are raising oysters, big crabs, and among other things, they have perfected a small salmon that is adult and they are selling these. This project is just about self-sufficient.

The State college up there has loaned professors and a lot of students go there to learn fisheries.

So there is an example of what a little seed money can do. There would be literally scores of them that would be just sitting there if it was not for this, and the contribution they have made is great.

Mr. JAVITS. I thank my colleague very much.

Mr. KENNEDY. Mr. President, I thank the Senator from Washington, the Senator from Arkansas, and the Senator from North Dakota for accepting this amendment. And I particularly want to thank the chairman of the Labor-HEW Appropriations Subcommittee for his diligence in the areas on health, education, and aging appropriations. His support was essential, I believe, in obtaining agreement from the administration to spend in fiscal year 1975 at a level of $150 million. And in these areas, as well as with regards to this amendment, I thank the Senator from Washington (Mr. MAGNUSON).

I move the adoption of this amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

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

Mr. MCCLELLAN. Yes.

Mr. MANSFIELD. Mr. President, in April, I urged the Labor-HEW Appropriations Subcommittee to include in H.R. 5899 funds for "Emergency Energy Conservation Services" under section 222(a)(12) of the Economic Opportunity Act of 1964, as amended.

Section 222(a)(12) of the Community Services Act of 1974, signed into law by President Ford on January 4, 1975, is designed to reduce the impact of high energy costs on low-income individuals and families, including the elderly and the near poor. It authorizes the Director of the Community Services Administration—successor to the Office of Economic Opportunity—to establish winterization programs and provide other supportive assistance, such as emergency loans and grants, special fuel voucher or stamp programs, transportation, nutrition, and health services in emergency cases.

The CSA winterization assistance program has demonstrated energy conservation through the highly successful pilot project—Project FUEL—conducted by CSA in the State of Maine in 1974. It has been well documented that this appropriation is an investment in energy conservation.

A major long-term thrust of both energy conservation and the alleviation of energy-related hardship among the poor, however, must be the development of new energy technology appropriate to the needs of the people. It is clear that the beginnings of such a technology exist today. There is a great deal of uncoordinated and inadequately financed research and development activity in such areas as solar heating, more efficient burning of wood and coal, materials recycling, housing design, community power generation, and windmills.

It is clear that without advocacy and support from CSA, Federal encouragement of activities in the development of alternative sources of energy will continue to be directed exclusively to highly sophisticated and costly research and technology which, if it ever benefits people of moderate and low income, will only do so years hence. At the same time, CSA does not have the technical support capability to exercise sound judgment in the selection of alternative energy projects, for example, to determine whether a particular proposal for the solar heating of low-income housing is technically feasible. Without strong advocacy and assistance from CSA, such a proposal, even if technically feasible and sound, has little chance of being funded from

the Solar Heating and Cooling Demonstration Act, from the National Science Foundation or from ERDA.

Thus, in addition to its present responsibilities, CSA's winterization assistance program should also utilize a national energy center to provide the low technology required on an immediate, practicable, and workable basis. This activity is not a "think tank," but just the opposite—an action group to find and package technology in order that people can be trained to immediately carry out effective projects. These activities will be communication, training, and actually delivering technology as needed. The objective will be to deliver as much technology as possible for the least possible cost. This function is not presently available to CSA either within the Government or by private firms. Such a center will increase the already significant cost-effectiveness of the winterization program by preparing energy conservation systems designed for specific climates and areas.

The committee has done an excellent job in increasing the funding level for the CSA winterization assistance program. It is a start in the right direction and as the performance level of the program increases, as I am sure it will, future increased funding levels will be justified. I ask the committee, however, in the conference report on H.R. 5899 to direct the Community Services Administration to establish a national energy center. This will give CSA the guidance to begin development of such a center and specific appropriations for that purpose can be sought through future appropriations.

I hope this meets with the approval of the distinguished chairman of the committee and the distinguished chairman of the subcommittee.

ENERGY CONSERVATION AND CLIMATIZATION FOR THE POOR

Mr. CRANSTON. Mr. President, I wish to join in full support of the remarks of the distinguished majority leader (Mr. MANSFIELD). I concur fully with his statement of strong concern for the establishment of a national energy center to coordinate winterization program activities carried out under section 222(a)(12) of the Economic Opportunity Act of 1964, as amended.

I am most grateful to the committee and to Chairman MAGNUSON and the distinguished majority leader for adding in the Second Supplemental Appropriations Act as reported, $19 million for the section 222(a)(12) program.

I have worked closely with Senator MANSFIELD on this program over the last month. The program and the establishment of the center are matters of considerable interest to me for the following reasons:

First, as a member of both the Labor and Public Welfare Committee and the Banking, Housing and Urban Affairs Committee, I am involved in the work of both of these committees with joint jurisdiction over housing-related energy problems of the poor. For example, title XI of the Energy Independence Act of 1975, as proposed in the President's energy message would have established a winterization program similar, although not as complete, as the one, already called for by EOA section 222(a)(12). This bill was jointly referred to both committees.

Second, the California Community Action Programs Association has specifically asked me to support establishment of the center. The association has indicated that there is a critical need to develop alternative energy sources appropriate to the various California constituencies which it represents, and to their physical locations and climates. Moreover, the ever rising costs of more traditional fuels make the need to reduce poor people's dependence on costly energy sources an increasingly critical one. At the present time, we are lacking a source of technical support which can keep abreast of current activities in the field, assess alternative proposals and systems, encourage technological innovation, and assist local groups in the development of technology appropriate to the needs of the people. The proposed national energy center would serve that purpose.

Third, we have been very actively working in concert with Senator MANSFIELD's staff, in developing the concept of the center.

Finally, I initiated a letter to Senator MAGNUSON, chairman of the Appropriations Committee's Subcommittee on Labor, Health, Education, and Welfare, cosigned by Senator MANSFIELD and six other Senators in which we urged funding of $64 million for the program and emphasized the need for the program and the center. We stated then, and I would like to reassert at this time, that the center is a major component in assuring the cost-effectiveness of the winterization program.

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

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

WASHINGTON, D.C., *April 21, 1975.*

HON. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor-Health, Education, and Welfare, Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing to urge that the Subcommittee include in H.R. 5899, the Second Supplemental Appropriations Act, 1975, funds for "Emergency Energy Conservation Services" under section 222(a)(12) of the Economic Opportunity Act of 1964, as amended.

These funds would provide insulation and winterization services for the elderly, poor, and near-poor. If they are to secure relief from next winter's cold, winterization activities must be completed during the coming summer and fall. Thus, it is vital for the funds to be made available at this time.

DISCUSSION

The Community Services Administration (CSA) and over 700 of its delegate agencies have already utilized $22 million in local initiative funds for this program in FY 75. But we must build upon and expand those efforts. The Federal Energy Administration has (we think conservatively) estimated that five million homes occupied by the poor are badly in need of insulation.

You will recall that seventeen Senators wrote you on February 25 regarding this program and the need to expand CSA's ongoing efforts. The Director of CSA, Mr. Bert Gallegos, has stated that, as of February 12, 1975, there were pending unsolicited and unmet applications for programs under section 222(a)(12) totalling $88.1 million, and that an additional $53.5 million in new proposals were being developed, for an aggregate of $141.6 million. He has further testified before your Subcommittee on March 4, 1975, that $64 million can be effectively utilized in FY 1975.

The program is patterned after the highly successful pilot project ("Project FUEL") conducted by CSA in the State of Maine in 1974. That project resulted in winterizing more than 3,000 homes at a total cost of less than $160 per home. The $280,000 expended on materials resulted in dramatic benefits. Health problems, particularly among the elderly, were reduced. Families were able to save fuel costs of two or three times the amount spent in materials.

We believe that this program can make a highly effective use of funds. Most of the money would go for insulation materials, since states will be encouraged to use enrollees in programs under the Comprehensive Employment and Training Act of 1973 (CETA), as well as volunteers, to do the labor. The program would also utilize a national energy center. This would be an action-oriented center, designed to find and package technology of an immediately applicable nature. The center should greatly increase the program's cost-effectiveness, by preparing energy conservation packages designed for specific climates and areas.

Mr. Chairman, we wish to stress the program's importance in terms of energy conservation. CSA's report on "Project FUEL" indicates that 1.6 million gallons of fuel oil and kerosene were conserved. They also estimate a yearly savings of six gallons of fuel oil for each dollar spent on insulation materials. Thus, the appropriation that we are now requesting is also an investment in energy conservation. It will repay itself many times over, not only in reduced fuel costs for individuals but in increased energy independence for our Nation.

RECOMMENDATION

Although the President has not submitted a budget request for this program as we had urged, the above discussion, we believe, illustrates the critical nature and cost-effectiveness of this program. We therefore urge the subcommittee to add $55 million to GSA's appropriation over and above the $9 million added on the House floor for this purpose. This would bring the total amount available under section 222(a)(12) to $64 million—the amount Director Gallegos has testified could be effectively utilized this fiscal year and an amount equal to the President's winterization request for FY 1975 and 1976 (under title XI of his energy proposal which the Banking, Housing, and Urban Affairs Committee has already decided not to include in the bill, S. 1483, which it has ordered reported from Committee). We also ask that this $64 million be identified in the Committee report as specifically for section 222(a)(12) winterization, acclimatization, and energy conservation activities, including the establishment of an energy center.

Although we understand that the Subcommittee included $10 million for winterization purposes under section 222(a)(12) in the Emergency Employment Appropriations Act, H.R. 9452, we believe that it would be preferable to include all funds for this purpose in one bill. We would favor the bill in which GSA's regular appropriations will be included, the Second Supplemental Appropriations Act, H.R. 5899.

Thank you and the members of the Committee for your consideration. We are most grateful for your assistance.

With warm regards.

Sincerely,

MIKE MANSFIELD,
HARRISON A. WILLIAMS, Jr.,
ALAN CRANSTON,
HENRY M. JACKSON,
EDMUND S. MUSKIE,
LEE METCALF.

Mr. CRANSTON. Mr. President, in closing, I would strongly urge the committee to direct in the conference report on H.R. 5899 that the Community Services Administration establish a national energy center to assist CSA in the development and expansion of its winterization assistance program. Such an energy conservation program is in the Nation's interest and deserves our full support as the Senator from Montana has already so eloquently pointed out.

Mr. President, I would like to take this opportunity to congratulate my colleagues on the Appropriations Committee for their efforts on H.R. 5899, the Second Supplemental Appropriations Act, 1975. I, particularly, want to thank the distinguished chairman of the Subcommittee on Labor-HEW (Mr. MAGNUSON) and its ranking minority member (Mr. BURKE) for his tireless efforts and dedication to insuring adequate funding for many important human needs programs. There are a number of such programs, contained in this supplemental, which I would like to discuss in greater detail.

VETERANS COST-OF-INSTRUCTION—VCI—PROGRAM

Mr. President, the VCI program was designed to enhance the educational opportunities available to veterans, especially disadvantaged Vietnam-era veterans. Despite the obvious need for the program, and its demonstrated success, the administration has never requested funding for the program. I would like to extend my deep appreciation, and I know the appreciation of thousands of Vietnam-era veterans, to Senators MAGNUSON, HOLLINGS, CASE, and this year especially to Senator BAYH, for their efforts to insure funding for the VCI program.

The committee's most recent funding action—adding $15 million to the $23.7 million already appropriated in fiscal year 1975 for the distribution during school year 1975–76—is especially critical for the effective operation of the VCI program. As the committee's report—No. 94–137—on the act so accurately points out—

When this item [VCI] was considered in conjunction with the regular 1975 bill, eligible institutions were estimated to total 1,000. Subsequent to that action, new legislation was enacted which has the effect of expanding participation to an additional 350 institutions. Under these circumstances, the average level of program support to participating institutions would be reduced by nearly 25 percent. In addition, veterans' enrollments are expected by some to increase as much as 40 percent during the upcoming academic year. For these reasons, the Committee has recommended that additional funds be provided to avoid short-changing those who have served their country in the military.

Mr. President, on April 22, 1975, Senators RANDOLPH, BENTSEN, JAVITS, MATHIAS, and I wrote to Chairman MAGNUSON urging that additional funds be appropriated for the VCI program. I ask unanimous consent that the April 22 letter and a background and justification statement in support of VCI funding increase recommendation be inserted in the RECORD.

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

WASHINGTON, D.C., *April 22, 1975.*

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor-Health, Education, and Welfare, Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing to urge your Subcommittee to include in H.R. 5899, the Second Supplemental Appropriations Act, 1975, $20 million for the Veterans Cost-of-Instruction (VCI) program. This $20 million added to the $23.7 million already appropriated in the Labor-HEW Appropriations Act, 1975, P.L. 93–517, would result in an aggregate FY 1975 appropriation of $43.7 million for awards for eligible institutions.

Additionally, we urge the Committee to include in the FY 1976 Labor-HEW Appropriations bill such sums as may be necessary to maintain a level of funding for all eligible VCI institutions comparable to the academic year 1975–76 funding level—$43.7 million in line with our supplemental request for FY 1975 outlined above.

The total appropriation of $43.7 million is less than the $50 million appropriation approved by both this Committee and the Senate in fiscal years 1974 and 1975. In both instances, the funding level was cut back to the House-approved $23.7 million in Conference.

A level of funding closer to the previously Senate-approved level is urgently needed now to prevent many CIV schools from experiencing severe cutbacks in their fiscal year 1975 (school year 1975–76) awards resulting from an anticipated 33 percent increase in the number of institutions which will be eligible for VCI awards. This increase is the result of two factors: (1) amendments to the program enacted last August in the Education Amendments of 1974, P.L. 93–380, which enabled additional schools to qualify for the program; and (2) a substantial (estimated at from 25 to 60%) increase in the number of veterans enrolled in colleges and universities this year over last year's number. In order to make it possible for the student veterans in these newly eligible VCI institutions to benefit from the services of a full-time office of veterans affairs, and to prevent severe cutbacks in existing VCI programs, we believe it is of critical importance that the additional funds we are recommending be made available for the VCI program in fiscal year 1975.

Mr. Chairman, the House has included $23.7 million for the VCI program in its "Education Division and Related Agencies Appropriations Act, 1976", H.R. 5901. We are encouraged by the House's initiative in this regard. However, the Office of Education has adopted a practice—despite Congressional efforts to change this funding procedure*—of obligating VCI monies at the *end* of the fiscal year (in effect forward-funding), rather than making funds available to eligible institutions for use *during* the academic year in which they are appropriated. Continuation of this practice will prevent any VCI funds appropriated in FY 1976 from reaching schools until academic year 1976–77.

We, therefore, are convinced that the only way to avoid severe cuts in program funds during academic year 1975–76 is to supplement the available FY 1975 appropriation and to provide for continuation, in the FY 1976 Labor-HEW Appropriations bill, of such an increased level of funding. Enclosed is a detailed Background and Justification Statement explaining the bases for our request, including the statutory authorization for such appropriations, the history of the program's success, and the evidence of the continuing need for it.

We hope you and the members of the Committee will consider this recommendation favorably, and we are most grateful for your assistance in this matter.

Warmest regards.

Sincerely,

ALAN CRANSTON,
JACOB K. JAVITS,
JENNINGS RANDOLPH,
CHARLES MCC. MATHIAS.
LLOYD M. BENTSEN.

*The Senate Appropriation's Committee's Report on H.R. 15580, the Labor-HEW Appropriations Act, 1975, urged the Office of Education to spend Fiscal Year 1975 funds *during* the academic year. The Office of Education has refused to give heed to this direction, and it seems unlikely that it will obligate funds in a different manner this year.

BACKGROUND AND JUSTIFICATION STATEMENT IN SUPPORT OF VCI FUNDING INCREASE RECOMMENDATION

The VCI program, enacted in the Education Amendments of 1972 (P.L. 92–318), was designed to provide incentives and supporting funds for colleges and universities to recruit veterans and to establish special programs and services to assist veterans in readjusting to an academic setting, especially disadvantaged veterans. Institutions which met various requirements of the legislation for special veterans programs were to be entitled to payments of up to $450 for each of certain categories of veterans enrolled in an undergraduate program on a full-time basis.

In the VCI program's first year of operation (school year 1973–74), and in the second year (1974–75), eligible colleges and universities received only 17 percent and 14 percent, respectively, of their entitlements. Despite this, VCI programs have provided a central focus for efforts to meet the needs of veteran-students. During these first two years, however, many smaller schools found it necessary to return their awards for lack of sufficient funding to meet the requirements of the law. And most schools have been unable to implement fully the kinds of programs they had originally planned. At the even lower level of entitlement funding anticipated for next year, many more schools will find it necessary to return their awards, and all VCI institutions will experience a significantly reduced capacity to implement their programs.

At a time when thousands of Vietnam-era veterans continue to suffer from serious readjustment and employment problems, the need is to enhance rather than severely restrict available educational opportunities and services, particularly to those veterans who are educationally disadvantaged.

Nevertheless, there are those who would suggest that the need for the program is over. Since its inception in 1972 by Congressional initiative over Administration opposition, the VCI program has been a victim of Administration recalcitrance, indifference, and continued hostility. In 1973, it refused to release funds or issue program guidelines and regulations until a court decision directed otherwise, and, most recently, requested the rescission, rejected by the Congress, of the program's FY 1975 appropriation. The Administration has argued (1) that the program is inflationary; (2) that the need for the program has passed; (3) that institutions should cover the cost of the program; (4) that the program is duplicative; and (5) that the authority for the program expires on June 30,

1975, and that, therefore, FY 1975 appropriations would not be spent until FY 1976, at which time authority for the program will have expired.

These arguments are both inaccurate and misguided in substantial part for the following reasons: (1) The inflationary impact of $23.7 million, or even $50 million, seems minimal at best, especially for a labor-intensive program which enables more than 1000 campus offices of veterans affairs to recruit into college and to provide a wide range of greatly needed services to veterans.

(2) The need for the program has hardly passed. The evidence of the continuing critical purpose for this program is in fact overwhelming. Nearly 700,000 Vietnam-era veterans who are high school dropouts have made *no* use whatsoever of their educational and job training benefits under the G.I. Bill. Literally millions more have used but a small proportion of their benefits. The March unemployment rate for young Vietnam-era veterans (17.3 percent) continues to be double the national rate (8.7 percent). It is important to note that the law requires VCI institutions not only to establish full-time offices of veterans affairs, but also to go into their communities to find those veterans who are unskilled, unemployed, and most in need of educational assistance. Many disadvantaged veterans would be relegated to the unemployment lines, menial jobs or no job and exhausted UCX benefits if they were not informed of available opportunities by local VCI coordinators.

Further evidence of the need for continued and even expanded operation of the VCI program is the hundreds of phone calls, letters, telegrams, and program reports many Congressional offices have been receiving describing the sucess of the program, stressing its unique and valuable function, and urging its continuation and more adequate funding.

(3) Although the Administration contends that institutions can cover the costs of the program, there is absolutely no evidence to support that proposition. The evidence is exactly to the contrary. It has been estimated by the National Association of Veterans Program Administrators that 85 to 90 percent of all campus veterans offices would be forced to close if the VCI program is discontinued. The validity of this estimate is strongly supported by the very great energy-price squeeze which institutions of higher education are now experiencing.

(4) The program is *not* duplicative of the Veterans Administration's Vet Rep Program, as the Administration has implied. Again, the opposite is the case; the law prohibits duplication. Section 243(a)(3) added to title 38 of the United States Code by P.L. 93–508, the Vietnam Era Veterans Readjustment Assistance Act of 1974, describes the responsibilities of the Veterans Representatives—their primary function (clause (A)) being to expedite the Veterans Administration's implementation of the educational benefits program under title 38. Section 243(a)(3)(E) provides that Vet Reps are also responsible for coordinating VA matters with all on-campus veterans' groups, working particularly closely with veterans' coordinators at educational institutions receiving VCI payments. Most significantly, section 243(a)(5) requires that Vet Reps carry out their functions in such a way as to complement and not interfere with the statutory responsibilities and duties of VCI coordinators and their assistants. Thus, by law, the responsibilities (primarily planning, implementing, and directing the full-time offices of veterans' affairs that make available tutorial assistance, job placement services, peer counseling, and outreach services) of VCI coordinators are clearly different from those of the Vet Reps assigned to VCI institutions.

(5) The Administration argues against FY 1975 appropriations for VCI since they would not be expended until FY 1976, at which time, it contends, authority for the program will have expired. First, funds appropriated in FY 1975 will not be spent until FY 1976 only because the Office of Education has refused to allocate them for expenditure during FY 1975. Second, although the VCI provision, section 420 of the Higher Education Act, explicitly authorizes the program only through June 30, 1975, section 414 of the General Education Provisions Act (added by P.L. 93–380, the Education Amendments of 1974) provides a one-year extension, unless Congress acts to the contrary, of both program authority and the authorization of appropriations for all Higher Education Act programs. As a result of this extension, not only can FY 1975 funds be expended during FY 1976 provided they are expended on or before June 30, 1975—according to the Office of Education's own method of forward funding—but also further funds may be appropriated in FY 1976.

Mr. CRANSTON. Mr. President, one good example of the kind of difficulty that has plagued the VCI program since its inception is the serious problem surrounding application procedures for academic year 1975–76 VCI awards. The combination of incorrect application materials, delayed mailings, and nonreceipt of errata sheets have caused numerous difficulties and much confusion among those institutions attempting to apply.

Although the Office of Education extended the original May 6, 1975, application deadline to May 12, many schools were not aware of this extension. On May 9, 1975, my distinguished colleague from Maryland (Senator MATHIAS) and I wrote the Commissioner of Education, Terrell H. Bell, urging that the application deadline be extended to June 6, 1975. I was pleased to note in the Federal Register, volume 40, No. 97, of Monday, May 19, 1975, at page 21756, that the Office of Education has extended the deadline for submission of applications to May 30. Although I believe many schools could have utilized the additional week we requested to prepare accurately their application materials, the extension to May 30 is a significant improvement over OE's originally proposed an inequitable May 12 extension.

Mr. President, I ask unanimous consent that our May 9, 1975 letter to Commissioner Bell be printed in the RECORD.

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

WASHINGTON, D.C., *May 9, 1975.*

Hon. TERRELL H. BELL,
Commissioner,
Office of Education,
Washington, D.C.

DEAR MR. COMMISSIONER: We are most concerned about the problems surrounding application procedures for academic year 1975–76 Veterans Cost-of-Instruction (VCI) program awards. It appears that a number of factors have combined to cause numerous difficulties and much confusion among those institutions attempting to apply.

It is our understanding that application materials—although dated April 11, 1975—did not reach many colleges and universities until close to the end of that month. Apparently, they were mailed in small batches, rather than all at once. Moreover, when these materials finally were received by schools, they contained a May 6, 1975, application submission deadline and several critical errors.

Among the errors was a mistake in the method for calculating the number of veterans enrolled, which is *the* basis for determining institutional eligibility. As a result of this error, a number of institutions were led to believe that they were not eligible for VCI awards. Although an errata sheet subsequently was mailed to correct this and other errors, we understand that it was not mailed until April 25. There may still be institutions which have not received these corrections, and in some cases, where the errata sheet has been received, it has created more confusion.

The errata sheet also extended the May 6 deadline to May 12. This extension, however, has been of little value to schools that did not receive the corrections until early May. Even if the application forms had been free of errors, the original May 6 deadline would have imposed unnecessary hardships on schools attempting to apply.

We believe it is imperative that you take steps immediately to ensure that all colleges and universities have a full and fair opportunity to apply for a VCI award, which is certainly required by the law. Most importantly, we urge that you extend the final application deadline to June 6, issuing a corrected, single, clear application, and making full use of Office of Education Regional Office Directors, VCI coordinators and VA Vet Reps (section 243 of title 38, United States Code) to inform schools in their areas of this extension, and to assist schools in completing their application materials.

We will look forward to hearing from you at your earliest convenience regarding your plans for resolving these difficulties. At that time, we also would appreciate learning why initial application materials were not prepared for mailing until April 11, and then mailed, in many cases, at a considerably later date.

Thank you for your cooperation in this matter.

Sincerely,

CHARLES MCC. MATHIAS, JR.
ALAN CRANSTON,

OFFICE OF EDUCATION: ALCOHOL AND DRUG ABUSE EDUCATION

Mr. CRANSTON. Mr. President, the committee recommendation to provide $4 million for alcohol and drug abuse education activities has my full support. This program has been operating on a continuing resolution over the period of the last 11 months, due to a decision on the part of the Congress to defer consideration of appropriations in the regular fiscal year 1975 Appropriations Act until enactment of the necessary authorizing legislation.

The cost effective benefits of preventive activities and programs that provide reasonable alternatives to individuals considered high-risk candidates for drug use and abuse provide a particularly compelling reason in this time of recession and high deficit spending for supporting the committee's recommendation. I also endorse the committee recommendation eventually to bring all HEW drug-related activities and programs under the auspices of the Alcohol and Drug Abuse and Mental Health Administration where authority for drug prevention, treatment, and rehabilitation lies.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT: HEAD START

The committee recommends $452 million for Head Start, an increase of $37.7 million over the budget request and $22 million over the House amount.

The Head Start program is now in its 10th year of operation and has achieved

wide acclaim as being our Nation's most effective model for providing developmental education for pre-school children. Yet Federal support for Head Start has not been adequate even to keep pace with inflation, nor for meeting the needs for expansion of program services to meet the added costs of serving handicapped children or expanding enrollments.

The committee recommendation has my full support and endorsement.

RAILROAD IMPROVEMENT AND EMPLOYMENT

Mr. President, I also want to congratulate the Committee on its recommendation of $700 million to provide Federal financial assistance to railroads for repairing, rehabilitating, and improving rail rights-of-way and facilities.

Our Nation's railroads have been severely affected by the economic recession. The severe drop in employment that has occurred in the railroad industry, in addition to our Nation's dependence on the railroad industry for the distribution of freight and commodities attests to the need for this appropriation.

ARTHRITIS

I am delighted, Mr. President, with the responsiveness of the committee to recommendations I had made in a letter to the distinguished chairman of the Subcommittee on Labor-HEW Appropriations (Mr. MAGNUSON) dated April 7, 1975. In that letter, I asked that adequate funds be appropriated to support the initial efforts of the National Commission on Arthritis and Musculoskeletal Diseases established by the National Arthritis Act, an act which I authored and which 76 Senators cosponsored in the last Congress. This Commission is charged with formulating a long-range arthritis plan, including specific recommendations for the use and organization of national resources to combat arthritis.

The recommendations of this Commission will be all important in the implementation of the other authorities in the National Arthritis Act, and I am pleased with the speed with which the Department of Health, Education, and Welfare, has moved to appoint the members of the Commission and to convene its first organizational meetings. The appropriation of $300,000 in the Second Supplemental Appropriations Act, 1975, as reported, will enable the Commission to make a strong beginning in this fiscal year.

In a related action, the committee has also earmarked $4.5 million of the amount appropriated for the regional medical programs to continue arthritis pilot programs begun in fiscal year 1974 using similarly earmarked funds. These programs are of importance in developing a strong base for effective research, treatment, and rehabilitation related to arthritis; the committee's action in providing continuation funding for these pilot projects will permit them to realize their full potential and provide important documentation as well as open new areas for the prevention, treatment, and rehabilitation of victims of arthritis.

RMP

The committee's support of the House increase over the budget request for regional medical programs is a step with which I am in full agreement. The California regional medical program has established an outstanding record in developing needed health resources in California, in training new types of health personnel, such as nurse practitioners, and in helping communities plan for adequate health resources. The amount appropriated for RMP—$50 million—will enable this valuable resource to undergo an orderly transition, while the new authorities of the National Health Planning and Resources Development Act of 1974—Public Law 93-641—are being implemented.

The amount appropriated to support the initiation of the new State and local agencies authorized by that act will allow a strong start to be made immediately to start this important program.

NURSING RESEARCH

The inclusion of $1.2 million for new nursing research projects in the supplemental will support badly needed programs to expand nursing education, particularly in the development of clinical specialists and nurse practitioners. These valuable new members of the health care team have proved their worth many times over, and I believe they will play an increasingly important role in the health care of the future.

VETERANS

Mr. President, as chairman of the Subcommittee on Health and Hospitals of the Veterans Affairs Committee, I am particularly pleased that the request made by the administration to carry out certain recommendations arising from the findings of the special survey report on the level of the quality of patient care at Veterans' Administration hospitals and clinics, conducted by Dr. John D. Chase, Chief Medical Director of the Veterans' Administration, has been accepted by the committee and the full amount requested has been included in the Second Supplemental Appropriations Act, 1975.

Last month, Senator HARTKE, chairman of the Committee on Veterans Affairs, and I, wrote a joint letter to the distinguished chairman of the Subcommittee on HUD-Space-Science-Veterans Appropriations (Mr. PROXMIRE) supporting the administration fiscal year 1975 supplemental request of approximately $70 million. Inclusion of this request in the bill currently before us will mean that additional badly needed nursing staff to improve coverage of hospital wards will be provided; that certain improvements at VA hospitals, including air-conditioning, installing emergency electrical systems, elimination of safety hazards, the improvement of outpatient clinics, and the replacement of boiler plants at selected hospitals can also be achieved. These were all deficiencies identified in the quality of care report.

Appropriations of funds at this time to begin these physical improvements, and to hire new staff will enable the VA to address these problems more rapidly, Mr. President.

FUEL BILL ASSISTANCE

Mr. MUSKIE. Mr. President, we have just passed through the second winter of hardships for those who cannot afford the fuel needed to keep their homes heated.

And again, we have done too little to help.

Therefore, I am pleased that we are now considering a supplemental appropriation in the amount of $19 million to assist the poor meet their home heating needs.

Available for the remainder of the fiscal year 1975, these funds can be used by the Director of the Community Services Administration to establish home insulation programs in preparation for another winter.

Even this small first step has been achieved only after months of considerable effort and months of consideration. Last fall, I introduced legislation which would have provided direct financial assistance to low- and moderate-income families who could not afford to pay their fuel bills. Early this year Senator JAVITS and I and 17 other Senators urged both the President and the Congress to provide this necessary kind of assistance.

Viewed in terms of national need, the sum we are appropriating is modest, to say the least. But it is one step toward a full program, not only for winterization services, but emergency loans and grants, special fuel voucher or stamp programs, transportation, and other supportive assistance as well. I hope such a program will soon be funded.

By passing this appropriation, we are recognizing the immediacy of our task. Using existing authority, we can make use of the summer months for opportunities that otherwise would be lost.

In my home State of Maine, the Office of Economic Opportunity carried out "Project Fuel," that provided direct aid to thousands of low-income families. On a relatively small scale, it demonstrated the large impact and benefits such a program could have nationally.

Using this proven approach, the success of the Maine program could be repeated elsewhere.

Such a program is imperative to ease the suffering of those already suffering other conditions of poverty and unemployment.

According to the final report of the Ford Foundation's energy policy project, low-income Americans spend 15 percent of the family budget on energy compared to 4 percent for the well-to-do. While others can adjust their lifestyle to accommodate the high cost of energy, the poor must make the cruel choices of adequate fuel versus food, clothing, or medical care.

These fellow-citizens deserve our help.

Mr. McCLELLAN. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, by the Senator from Massachusetts.

Mr. McCLELLAN. I thought so. I ask for a vote on that amendment. Let us dispose of it.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. McCLELLAN. Mr. President, we have to proceed with some order.

I understand the Senator from Montana wants to offer an amendment.

Mr. MANSFIELD. No. I made a statement which I hope will meet with the approval, and I am sure it will, of the chairman of the full committee and the chairman of the subcommittee.

Mr. McCLELLAN. I misunderstood. I thought the Senator would be offering an amendment.

Mr. MAGNUSON. Mr. President, I want to say it meets with my approval. This is a step in the right direction. We have to move a little slowly, but the committee is very sympathetic to this proposal.

Mr. MANSFIELD. I appreciate that statement.

Mr. CURTIS. Mr. President, I ask unanimous consent that a memorandum prepared by the Department of Health, Education, and Welfare be printed in the RECORD at this point.

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

SECOND SUPPLEMENTAL PUBLIC ASSISTANCE APPROPRIATION LANGUAGE

The Senate Appropriations Committee has recommended the addition of the following bill language in the Second Supplemental Appropriations Act, 1975 (H.R. 5899) to the "Public Assistance" account:*

Provided further, That community mental health centers providing covered services to qualified social services beneficiaries pursuant to titles IV-A, VI, and XX of the Social Security Act shall be reimbursed on the basis of reasonable cost for such services without any reduction in such reimbursement on the basis that such centers are receiving Federal funds under the Community Mental Health Centers Act and that the receipt of funds appropriated for community mental health centers for the fiscal year 1975 shall not be used as a factor by the States in calculating reduced reimbursements for services provided pursuant to titles IV-A, VI, and XX of the Social Security Act.

This language mandates that Federal grants from the community mental health centers program, which provide initial operating support for CMHC's, be disregarded in computing reimbursements for services which may be financed through the public assistance social services programs.

Where a service provided through a CMHC can be reimbursed through Public Assistance, this language provision provides for a reimbursement calculation based upon 100 percent of reasonable costs.

This language provision requires the Federal Government to pay for more than 100 percent of the costs of the service.

75 percent of the service through the public assistance social services program (75 percent Federal matching) and

A range of from 90 percent to 70 percent Federal support through the CMHC staffing grant for poverty area mental health centers or a range of 75 percent to 30 percent for non-poverty area CMHC's—about one-half of the centers are in each category. Staffing grants are provided over an eight-year period on a declining percentage basis.

In other words, the Federal Government could be financing from 105 percent of the cost up to 165 percent of the cost of CMHC social service reimbursable activities.

Not only is this fiscally irresponsible, it is inappropriate for the Congress to legislate this kind of policy through appropriation language.

There was no review by the appropriate authorizing committees.

It overturns, by appropriation language, proposed regulations published in the Federal Register on April 14, 1975, thereby preventing the Department from carrying out statutory responsibilities established by the Congress and assigned to HEW.

It creates a situation where the Federal Government pays for more than the cost of providing a service.

The language is clearly legislating through appropriation action, and

The language does *not* serve as a limitation on the expenditure of funds—on the contrary, it mandates the expenditure of additional funds.

*Beginning on line 3, page 14 of the H.R. 5899.

Mr. CURTIS. Mr. President, in a moment I will make a point of order against the amendment appearing on pages 14 and 15, beginning on line 24 on page 14 and running over to line 14 on page 15.

This is legislation on an appropriation bill. The matter has not been called to the attention of the legislative committee involved. The chairman of that committee (Mr. LONG) is not available in the Chamber today. I do not have any instructions from him, however, but I am preserving the rights of the committee until he is consulted.

I also believe that this language, in addition to being legislation on an appropriation bill, inadvertently provides for more than 100 percent Federal cost of a program; that some funds would come out of the general assistance program and then this program itself. I am told by the Department of Health, Education, and Welfare that the Federal Government could be financing from 105 percent of the cost up to 165 percent of the cost of the community mental health center social service reimbursable activities.

I am sure this was not intended.

Mr. President, I am not unaware of the need for the right kind of services in connection with mental health. I am not unsympathetic with that at all. But since it is legislation on an appropriation bill and does raise some questions about the financing, I make a point of order, Mr. President, that the amendment in the bill beginning on line 24, page 14, through the end of line 14 on page 15 is legislation on an appropriation bill.

The PRESIDING OFFICER. In the opinion of the Chair the language objected to is clearly legislation. Therefore, the point of order is well taken.

Mr. CURTIS. I thank the Chair.

Mr. HUMPHREY. Mr. President, I have had a visit with the distinguished Senator from Wisconsin (Mr. PROXMIRE), the chairman of the subcommittee, relating to the item that I was discussing earlier, namely, funding under the Fresh Drinking Water Act of 1974.

I propose an amendment to the bill before us on page 6 after line 16 to insert the following:

To carry out the provisions of section 1444 of the Safe Drinking Water Act, $7.5 million to remain available until expended.

Mr. President, that is my amendment.

Mr. PROXMIRE. Will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. PROXMIRE. I have discussed this amendment with the distinguished Senator from Minnesota. It is a good amendment. I can tell him that, as one who comes from Wisconsin and represents very rural Wisconsin, which is also tragically affected by this contamination of Lake Superior and these filings that many feel may be causing cancer, that I think this is a humane and vital amendment. It is appropriate to have it on a supplemental appropriation bill. Indeed, if I had known about the situation, known that we could do it, we would have considered it, certainly, in the subcommittee, and I would have urged the subcommittee and the full committee to accept it.

I would suggest one technical modification.

On page 6, after line 16 I would suggest that a title "Environmental Protection Agency" be inserted, simply to make it clear that this is the agency that is responsible.

Mr. HUMPHREY. Mr. President, I modify my amendment accordingly, so that the caption will be "Environmental Protection Agency," and then the language would read as I read it into the RECORD and as I presented it to the clerk.

Mr. PROXMIRE. If the Senator will yield, as I understand it this $7.5 million has been authorized.

Mr. HUMPHREY. The Senator is correct. It is authorized for fiscal 1975. For fiscal 1976 there is another $7.5 million. Then the bill authorizes $10 million for fiscal 1977. But in this proposal we are talking about only the authorization for this year.

Mr. PROXMIRE. Mr. President, I have talked with the people in Superior, and the Senator from Minnesota has talked with people in Duluth, and they are deeply concerned about this matter. It literally is a matter, without exaggeration, of life and death. People are suffering from cancer because of this situation. This is precisely the kind of action that would be helpful in using our modern technology, which is just coming on the scene, to solve this problem and literally to save lives.

Mr. HUMPRHEY. I thank the Senator from Wisconsin.

Mr. President, I ask unanimous consent that the names of Mr. PROXMIRE, Mr. MONDALE, and Mr. JAVITS be added as cosponsors of the amendment.

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

Mr. PROXMIRE. Mr. President, I have checked with the ranking Republican member of the subcommittee, and he agrees that this is a good amendment and is willing to support it.

Mr. McCLELLAN. Mr. President, unless there is objection on the part of the distinguished Senator from North Dakota, I am prepared to accept the amendment and to take it to conference.

Mr. YOUNG. I have no objection. I hope we can complete this bill soon. There are important items that can be handled expediously. The House is going to adjourn in a couple of days, and they will want us to go to conference possibly this afternoon.

Mr. HUMPHREY. I have no other amendments.

The PRESIDING OFFICER. The amendment not having been stated previously, the clerk will now state the amendment, as modified.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. HUMPHREY), for himself, Mr. PROXMIRE, Mr. MONDALE, and Mr. JAVITS, proposes an amendment as modified:

On page 6, after line 16, insert the following:

ENVIRONMENTAL PROTECTION AGENCY

To carry out the provisions of section 1444 of the Safe Drinking Water Act, $7.5 million to remain available until expended.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Minnesota.

The amendment, as modified, was agreed to.

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

The Senator from Illinois (Mr. PERCY) wanted notice, and he just left the Chamber.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. BUCKLEY. Mr. President, I ask unanimous consent that Mr. Hal Brayman, of the Public Works staff, be accorded the privilege of the floor during the discussion of this bill and all amendments thereto.

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

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

The PRESIDING OFFICER (Mr. CASE). Without objection, it is so ordered.

Mr. NELSON. Mr. President, I rise to a question of order.

The language appearing on page 27, lines 1 through 16, of H.R. 5899, is authorizing language in an appropirations bill and therefore is in violation of Senate rule XVI, paragraph 4.

The language reads as follows, beginning on line 4:

Appropriations having been heretofore approved by Congress in Public Laws 91-144, 91-439, 92-134, 92-405, 93-97, and 93-393, to be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, for the replacement and modification of Locks and Dam 26, Mississippi River, Illinois and Missouri, substantially in accordance with the plans approved by the Secretary of the Army on July 14, 1969, the consent and approval of Congress for the construction of said Locks and Dam 26 by the Secretary of the Army having been granted thereby is hereby reaffirmed: *Provided*, That nothing contained herein shall be construed as authorizing a twelve-foot channel above Locks and Dam 26.

I ask the Chair for a ruling on the point of order.

The PRESIDING OFFICER. Will the Senator restate his point of order? What is the Senator's objection to the language? The Chair understands the language to which reference is made.

Mr. NELSON. The language appears to be authorizing language in an appropriations bill and therefore is in violation of Senate rule XVI, paragraph 4.

The PRESIDING OFFICER. The language is on page 27, between lines 4 and 16.

Mr. NELSON. Including the title.

The PRESIDING OFFICER. Including the title, it would be between 1 and 16.

The Chair is advised that that language is merely a recitation of facts and a disclaimer, and not legislation. In accordance with that advice, the Chair rules that the point of order is not well taken.

Mr. NELSON. The Chair has ruled that this language does not represent an authorization for the locks and dam 26 project. Nevertheless, I am troubled by the impression created by the language. I believe it should be known that there are substantial differences of opinion concerning this view. In fact, this language seems to affirm something, or attempts to affirm something that, in fact, does not exist.

On September 6, 1974, Federal District Judge Charles Richey ruled the Corps of Engineers had acted without the proper and necessary congressional authorization in proceeding with the construction of locks and dams No. 26, *Atchison, Topeka and Santa Fe, et al.*, v. *Calloway et al.* (382 F. Supp. 610 (Sept. 6, 1974)).

In granting the preliminary injunction that stopped the project, Judge Richey specifically held—

Therefore, the Court concludes that the proposed Locks and Dams 26 does not have the "consent" of the Congress under 33 U.S.C. 401. . . . Thus, an authorization bill would be necessary at the least for Congressional consent under section 401.

Congress must pass the laws. Members may debate and argue the merits of particular points and give their individual views as legislative history, but it is up to the courts finally to interpret the law. A Federal district judge in Washington has specifically ruled that this project is not authorized. The project has been stopped. No funds were requested for the project in the President's fiscal year 1976 budget.

One may argue the merits of that decision, but the fact remains that the decision has not been appealed. It is the law of the land.

This committee language only clouds the issue. It does nothing to resolve or address the problem. If anything, it makes the problem worse and the language should not be in the bill at all.

There is a serious problem along the Mississippi. It affects people all the way up the Mississippi to Minneapolis. It is a problem that needs to be solved as soon as possible. This language will not solve the problem. The issue, it seems to me, must be squarely faced. Public hearings are going to be held. The chairman of the House Committee on Public Works, on May 6, 1975, wrote that in his judgment this project was not—I emphasize "was not"—authorized by Congress. The chairman agreed with Judge Richey that the 1909 "repair and maintenance" language could not be construed as authorization for Locks and Dam 26. The Corps' plans go far beyond the 1909 legislative authorization permitting the Corps to "repair and maintain" existing facilities.

The Corps' plans are ingenious. Using the "repair and maintain" language, they appear to propose to reconstruct the whole facility 2 miles downstream. They propose to increase the capacity of the lock from 46,200,000 tons to 190 million tons. They want to quadruple the size of the existing facility and, most importantly, the Corps wants to begin construction of the 12-foot navigation channel without direct congressional authorization.

Construction of locks and dam 26 as advocated by the Corps would condemn the entire Mississippi River navigation system to immediate obsolescence. Every other dam will become inadequate. Without the benefit of public hearings or congressional review, we will have embarked on a multibillion dollar Federal program—without congressional review.

The chairman of the Committee on Public Works has informed the members of the Senate that public hearings on this specific issue will be held. In fact, as a preliminary step, oversight hearings on the inland waterway system have already commenced. It would be premature for the Senate to act on this matter through an appropriations bill before the authorizing committee has completed its hearings and recommended a course of action to the Senate.

Several vital studies are currently underway that should be reviewed by Congress before any further action is taken. First, the Corps of Engineers is preparing a new environmental impact statement designed to study the effects of Locks and Dam 26 on the entire Mississippi River.

Second, the Corps is also completing an economic analysis of the project, which should provide basic information on economic impacts on other transportation modes and on the Nation as a whole.

Third, at the request of the Senate Committee on Commerce, the Department of Transportation is reviewing the transportation questions associated with replacement of Locks and Dam 26.

Fourth, the Corps, the Fish and Wildlife Service, and other Federal and State agencies have formed the Great River Environmental Action Team to consider

future needs on the Mississippi River. Recommendations on the Mississippi's needs will be forthcoming.

I agree with Chairman Jones and Judge Richey. We must allow Congress, through the Committee on Public Works, to work its will.

One other important point must be made. Judge Richey dismisses the argument that prior appropriations by Congress have, in a de facto manner, authorized the project. Judge Richey held:

Such a contention is not only unpalatable, but also is erroneous as a matter of law.

There is no valid justification for the corps to use this 1909 "repair and maintenance" language to justify the wholesale development of a new and expensive water resource development program. The Corps of Engineers should not be permitted by default on the part of Congress to develop its own projects. Over the past, Congress has unfortunately given the corps too much discretion. We have gone much farther than we should. Too much power has been assumed by the corps through congressional neglect and default. We must draw a much finer line on discretionary powers that we have given the corps so that they may not go beyond the intent of Congress without review.

Mr. President, I ask unanimous consent that Judge Richey's opinion be printed in full in the RECORD following my statement.

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

(See exhibit 1.)

Mr. NELSON. Mr. President, I ask unanimous consent that a letter addressed to other Members of Congress and signed by the Senator from Illinois (Mr. STEVENSON), the senior Senator from Wisconsin (Mr. PROXMIRE), the Senator from Iowa (Mr. CULVER), the junior Senator from Wisconsin (Mr. NELSON), the senior Senator from Iowa (Mr. CLARK), the senior Senator from South Dakota (Mr. MCGOVERN), and the senior Senator from Minnesota (Mr. MONDALE) be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., May 16, 1975.

DEAR COLLEAGUE: We would like to call your attention to an unusual feature of the Second Supplemental Appropriation for 1975, H.R. 5899, as reported by the Senate Appropriations Committee on May 14. On pages 27-28 of the Committee's bill is a section entitled "Administrative Provision: Locks and Dam 26, Mississippi River, Illinois and Missouri." The apparent intent of this section is to provide, in an appropriation bill, language that could be construed to represent Congressional authorization for the new Locks and Dam 26 on the Mississippi River, at Alton, Illinois. We believe that inclusion of this language in the Supplemental Appropriation circumvents proper Congressional procedure, and we are requesting your help to defer final action until promised public hearings can be held and a more complete record established.

The Chairman of the Senate Public Works Committee has informed members of the Senate that public hearings on this specific issue will be held. In fact, as a preliminary step, oversight hearings on the inland waterway system have commenced. It would be premature for the Senate to act on this matter through an appropriations bill before the authorizing committee has completed its hearings and recommended a course of action to the Senate.

Several vital studies are currently underway that should be reviewed by the Congress before action is taken:

First, the Corps of Engineers is preparing a new environmental impact statement, designed to study the effects of Locks and Dam 26 on the entire Mississippi River;

Second, the Corps is also completing an economic analysis of the project, which should provide basic information on economic impacts on other transportation modes and on the nation as a whole.

Third, at the request of the Senate Commerce Committee, the Department of Tranportation is reviewing the transportation questions associated with replacement of Locks and Dam 26.

Fourth, the Corps, the Fish and Wildlife Service, and other federal and state agencies have formed the Great River Environmental Action Team to consider future needs on the Mississippi River. Recommendations on the Mississippi's needs will be forthcoming.

All the signers of this letter are not necessarily opposed to ultimate construction of Locks and Dam 26: we all believe, however, that it is inappropriate to act hastily on a Committee amendment that has not had the benefit of any testimony.

This issue will shortly come before the Senate. We urge you to give this most important matter your full consideration. For more information contact Jeffrey Nedelman at 45323.

Sincerely,
Adlai E. Stevenson, William Proxmire, John C. Culver, Gaylord Nelson, Dick Clark, George McGovern, Walter Mondale, U.S. Senators.

Mr. NELSON. I ask unanimous consent that a reprint of an article from the Sierra Club bulletin of October 1974, authored by Mr. Jonathan Ela, be printed in the RECORD.

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

CORPS GAMES IN MID-AMERICA

(By Jonathan Ela)

It seems that the Corps of Engineers has studied this parable diligently—at least in the Midwest—for on the Upper Mississippi River between Minneapolis and St. Louis it has adroitly employed camel tactics to achieve piecemeal what it dares not attempt all at once. In fact, the Corps and its allies would like to quadruple the navigational capacity of the Upper Mississippi Waterway over the next 50 years, increasing the system's rated capacity from 46 to 190 million tons annually. But it would prefer not to tell the public about this plan, or about the specious assumptions it uses to justify the project, assumptions that inflate all conceivable benefits and either ignore or minimize all public costs. Instead, the Corps asserts that it is merely proposing "improvements" of the present system, each one comparatively small and unobjectionable by itself, but when taken as a whole, inimical to the welfare of both the public and the river. Fortunately, the public has begun, at last, to learn how to keep the tent flap closed.

The history of navigation "improvements" on the Upper Mississippi and its tributary, the Illinois River, spans nearly 150 years, for these waters are the Corps' original public-works playground. So far, the Inland Waterway System consists of 29 locks and dams on the Mississippi and seven locks and dams on the Illinois. These structures, with the assistance of an enormous amount of maintenance dredging each year, provide a channel with a minimum depth of nine feet, which ties together such ports as Minneapolis and Chicago in the north, and St. Louis and the lower Mississippi and Ohio rivers in the south. The system's annual rated capacity of 46.2 million tons consists largely of bulk cargo such as grain, coal, and chemicals.

This commercial waterway operates in the precarious context of a river system that embodies an immense spectrum of public values extending far beyond navigation. The river is a great public resource of incalculable importance to millions of people in Mid-America. It provides virtually limitless opportunities for all kinds of recreation, such as hunting, fishing, waterskiing, canoeing, bird watching, hiking, and so on. The Upper Mississippi is also the site of two major national wildlife refuges, which provide essential resting grounds for waterfowl using one of the four great migratory flyways in North America.

In addition, the undeveloped bottomlands along the Mississippi River are rich in resident birds, mammals, and fish and other aquatic life. Furthermore, environmental groups have identified some 60,000 acres of public lands on the Upper Mississippi National Wildlife and Fish Refuge that qualify for wilderness preservation. Such a wilderness of meandering sloughs and backwaters bounded by the towering river bluffs would be among the most scenic and unusual units in the entire wilderness system.

Already, the Corps' existing navigation facilities have seriously compromised the natural integrity and recreation potential of the river system.

The turbidity caused by dredging—and even the propeller action of commercial vessels—has destroyed aquatic life. Wavewash generated by the long, snakelike barge trains that ply these waters contributes to erosion along the shores. The Corps' present dredging practices, including the disposal of spoil, has led to sterilization of significant areas of the river and has resulted in walls of sand that are choking off precious backwater areas by restricting the free flow of fresh water. All in all, the river is dying—slowly but surely—because of the paramount priority the Corps has given to navigation.

The waterway has also led to a substantial amount of industial development along the river in the form of coal-fired powerplants, shipping facilities, and the like. The siting of much of this development has been extremely unwise and has led to the unplanned and piecemeal destruction of the generally unspoiled and rustic qualities that still prevail along much of the river. Nobody argues that navigation should be terminated—for it is a traditional and necessary use of the river—but increasingly, citizens are demanding that it be placed in the context of all the values inherent in the river. The nonshipping public—most of us, after all—should be given a louder voice in future decisions affecting the river.

Such a suggestion is repugnant to the Corps, however, which has always regarded the Mississippi River as its own private canal, and which has cooperated with shipping interests for generations to assure that mutual plans for the river go unchallenged and unimpeded. It is against this background—an existing navigation project and rising public concern about the deleterious effects of navigation—that we see the Corps' application of camel's-nose-in-the-tentism in its classic and most spectacular form.

First, the Corps identifies a demonstrable

weakness in existing navigation facilities (an easy task in any such system). Then, it asserts publicly that this weak element must be replaced—ostensibly to bring this component up to snuff with the rest of the system, but actually to replace the entire system one step at a time. For the new link in the system, of course, will be more efficient than any of the older links, one or more of which can thereby be identified as new weaknesses. Thus, once the Corps has obtained a commitment to replace one weakness, a host of new ones will appear automatically. Weakness by weakness, the entire system will thereby be replaced and upgraded—without anyone's ever stopping to consider whether a new system was either necessary or desirable. When, at last, hundreds of millions, or perhaps even billions, of dollars have been spent, supposedly merely to maintain the present system, the remaining costs to complete the new system will be small enough that the Corps can then announce that it is economically imperative to proceed with the whole new scheme. At this point, the Corps is in the tent, and the public is out in the cold wondering what happened.

The Corps wishes to quadruple the capacity of the Upper Mississippi River system by deepening the channel from nine to twelve feet, by increasing the size of locks to accommodate larger tows, by permitting more powerful and faster tows, and by extending the navigation season past the traditional freeze-up point. To realize these goals will require a public investment of more than three billion dollars and will change the face of the Upper Mississippi River—in fact, there would no longer be an Upper Mississippi River, merely a Mississippi Canal, with all the scenic charm, recreation potential, and biological interest of a storm drain.

The proclaimed weak link in the Upper Mississippi River waterway, the nose in the tent, is Lock and Dam 26, at Alton, Illinois, just north of St. Louis. The Corps proposes to replace Lock and Dam 26 completely at a site two miles downstream from the existing structure. The new facility would consist of a massive earthen dike, a concrete dam with nine gates controlling the flow of the river, and, most important, two locks 1,200 feet long and 100 feet wide. Although the Corps bills this facility as a replacement, it represents, in fact, an enormous expansion of the existing system, and is the first major step in reworking the entire river.

Lock and Dam 26 is especially significant because it is the only structural hindrance to expanded navigation between the lower-Mississippi and Ohio River system and the mouth of the Illinois River. Therefore, replacement and expansion of this facility would lend impetus to further expansion on both the Upper Mississippi and the Illinois. Lock and Dam 26 was skillfully chosen as the place to start the total assault on the Upper Mississippi. Once a commitment to rebuild Lock and Dam 26 is obtained, the Corps can proceed up both rivers, while still protesting that its purpose is only to assure maximum efficiency of the present system.

The Corps has claimed that it has valid reasons to replace Lock and Dam 26, namely that not only is the structure the least-efficient link in the present system, but also that it has deteriorated and must be replaced to avoid failure. But this latter contention is scarcely believable considering that the Corps has admitted the lock could be repaired so it would last another 50 years for only about one-quarter the cost of replacing it. And even the most credulous mind must balk at the Corps' rationale in light of the fact that the proposed replacement of Lock and Dam 26 will consist of two locks, each substantially larger and deeper than the present lock, which together will quadruple the tonnage capacity of the facility.

In fact, there is no conceivable way that the Corps could economically justify the replacement of Lock and Dam 26 without assuming vastly increased traffic throughout the entire system. But for the system to accommodate such an increase, an entire new scheme of waterway improvement upstream of Lock and Dam 26 would have to be implemented. Although replacement of Lock and Dam 26 is but one part of the total scheme to quadruple shipping on the river, it is in itself the largest construction project in the history of the Midwest, weighing in at a boggling 380 million dollars.

At the same time that the Corps' ultimate intentions of developing a whole new waterway system were becoming more and more evident, the agency completely disclaimed the need to examine the effects of Lock and Dam 26 beyond the immediate construction site. Thus, the environmental-impact statement only examines problems in the immediate vicinity of the new dam.

In other words, we have here a classic example of another Corps strategy: When computing benefits, the Corps quietly assumes the existence of an entire new system, but when computing costs—including environmental costs—the Corps assumes only those of immediate construction. To cap things off, the Corps took the position, of course, that because reconstruction of Lock and Dam 26 was merely a routine matter of system maintenance further Congressional authorization was unneeded.

As environmentalists observed this scheme unfolding, it took some time to shake off a feeling of incredulity. But eventually, the Sierra Club and the Izaak Walton League of America determined that Corps behavior was so egregious that a major legal challenge should be mounted, and that, in fact, such litigation could serve not only to save our beloved Mississippi River, but also as a test case to challenge the validity of similar Corps procedures around the nation. It must be understood that environmentalists are not attempting to close the door to increased navigation, but only to assure that any decision to proceed with navigation expansion is made on a basis that examines *all* pertinent benefits and costs for the entire system.

Shortly after the two environmental groups resolved to pursue litigation on this matter, it came to light that a number of railroads were also interested in the issue. Barge traffic directly competes with rail traffic for the movement of bulk commodities along many routes, and the railroads were concerned that the public subsidy being given to the barge lines would make their already perilous economic position even more untenable. It is not widely known that barge navigation routes such as the Mississippi River are 100-percent subsidized by the American taxpayer: Shippers and barge operators do not pay a penny for either the initial capital investment or for the annual maintenance of a waterway system. Railroads, on the other hand, must pay a large proportion of their annual revenues for basic maintenance and improvements, along with real-estate taxes and similar costs. The railroads argue that huge additional public subsidies on the Upper Mississippi and Illinois rivers, which may ultimately total over three billion dollars, will permit more and more barge traffic at ever lower rates, which will not only directly affect the quality of rail service, and indeed the viability of the railroads themselves, but also will place shippers who do not have access to the waterway system at a tremendous disadvantage.

The railroads argue that the Corps has computed project benefits on a narrow basis that looks primarily at benefits to shippers and barge operators while ignoring the total economic impact on all parties nationwide; that if a thorough and comprehensive economic analysis were made, as required under a variety of statutes, the results would show that the implementation of the new Upper Mississippi Waterway leads to a net economic inefficiency—or loss—rather than a national economic benefit. Put another way, the railroads argue that many of the supposed benefits of the new waterway do not represent real gains, but simply transfer revenues from one economic sector to another.

When it became clear that two parallel legal efforts were emerging, common sense dictated that the environmentalists and railroads mount a cooperative legal effort to force reexamination of the Corps' plans. Thus was born one of the most logical and fruitful limited alliances the environmental movement has yet seen. Although the Sierra Club has no intention of meddling in the specifics of any competitive dispute between railroads and barges, it is certainly compatible with our history of concern about navigation projects to force valid and legitimate economic justifications of public works projects. The destruction of a river resource for economic reasons is very difficult for us to accept in almost any circumstance, but when the economic justification is spurious, as there is every reason to believe is the case on the Upper Mississippi, that destruction represents a double insult. Furthermore, environmentalists are very interested in developing a national transportation policy that is both efficient and minimally degrading to the environment. The sorts of analyses that would be forced by the railroads' legal arguments could very well show that alternative modes of transportation, including rail shipping, may eliminate the need for many destructive waterway developments.

Accordingly, the Sierra Club, the Izaak Walton League, and 21 railroads filed separate but parallel suits in Washington, D.C., on August 6. A temporary restraining order halting the opening of bids on initial construction of Lock and Dam 26, planned for the following day, was immediately granted. On September 5, Judge Charles Richey, in an opinion unsurpassed for clear, incisive logic, issued a preliminary injunction continuing the stay on construction activity of Lock and Dam 26.

Judge Richey said the project requires further authorization by Congress; and he sustained, on a preliminary basis, the merit of the plaintiffs' overall contention that Lock and Dam 26 represents only the first step in the total development of a new Upper Mississippi Waterway System designed to handle four times the existing traffic. Indeed, at one point, he declared that the Corps' contention that construction of Lock and Dam 26 is merely for maintaining the efficiency of the present system was "unworthy of belief."

Although the judge reserved decision on several of the plaintiffs' contentions until the actual trial, his overall opinion represents a strong vindication of the positions held by both the environmentalists and the railroads. On all contentions on which he chose to comment, his opinion confirms with eloquence the basic arguments presented by the plaintiffs.

Thus the camel's nose has for now been pushed out of the tent; for the moment, the Mississippi River has been granted a reprieve. But further development on the river is probably the one project in the nation that is closest to the Corps' heart—if it has one—and the agency will hardly give up without a fight. The actual trial on the Upper Mississippi River lawsuit, which will probably be held early next year, will be hotly contested, and we can be sure that the

Corps is already beginning to lay the groundwork in Congress for a legislative remedy should the courts continue to proclaim the illegality of the agency's intentions. Furthermore, the issues raised in this lawsuit are of extreme national importance, and the Corps would be seriously hindered by any sweepingly adverse judicial opinion in this case.

Consider the consequences to the Corps: First, it would be forced to seek Congressional approval for its actions, a necessity that is clearly in the nation's lawbooks but that the Corps systematically chooses to ignore when it can. Second, camels-nose-in-the-tentism would be banned, and the Corps would be forced to publicly proclaim and justify its ultimate intentions on massive waterway projects. Such public scrutiny would include all systemwide environmental effects, which the Corps would prefer to keep undisclosed. Third, the economic chicanery so often used by the Corps to justify the unjustifiable would be exposed, a fatal blow to the agency. In terms of value as a legal precedent, and considering the fashion in which common Corps practices are accentuated and laid bare in this instance, the Upper Mississippi litigation is probably the most important water-resource lawsuit in history.

Not only must the Corps desperately fight back, but so must its economic and political clientele. At present writing, St. Louis economic interest such as barge operators, shippers, contractors, and affected labor unions, all of whom stand to gain huge windfalls both by the construction of Lock and Dam 26 and the ultimate completion of the total new navigation system, are organizing to support their friends in the Corps. Through their spokesman, a retired Corps colonel who was formerly District Engineer in St. Louis, and who is now employed by a large contractor, these groups are making veiled threats of filing a countersuit against the Sierra Club and the Izaak Walton League, a clear attempt at intimidation that certainly misjudges the conviction of environmentalists and the climate of public opinion that makes our work possible.

And so the matter stands. The preliminary battles have all been won by the environmentalists, but the war has just begun—not a war to stop the Corps or to stop navigation, but one to establish for the first time that navigation must be made compatible with other values on the Mississippi River, and to assure that any huge increase in barge activities, such as the four-fold increase planned by the Corps, will only proceed if the superb environmental qualities of the river are maintained.

Success in this effort could lead, at least, to a balance between commercial uses of the river, including navigation, and other, equally important values, such as wildlife protection, wilderness preservation, and recreation. Failure here would mean that the camel is in the tent, the public in the cold, and the Mississippi River up the creek. A sizable portion of our largest river would become a sterile ditch, and the Corps would have new impetus for continuing similar boondoggiery across the nation, turning our rivers into ditches until Doomsday.

[U.S. District Court, District of Columbia, Sept. 6, 1974, Civ. A. Nos. 74-1190, 74-1191.]

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL., PLAINTIFFS,

v.

HOWARD H. CALLAWAY ET AL. DEFENDANTS

Railroad, environmentalists, and others brought action to halt reconstruction of lock and dam on Upper Mississippi River Navigation System. On plaintiffs' motion for preliminary injunction, the District Court, Charles R. Richey, Jr., held that, in view of the increased tonnage which the lock would handle and the likelihood that the project was merely the beginning of a complete overhaul of the entire system, the construction required congressional approval; that congressional approval had not been given; and that environmental impact statement which did not consider possible environmental effects of the reconstruction of the entire system of locks and dams was insufficient.

Preliminary injunction granted.

1. Navigable Waters—7

Corps of Engineers may replace a lock and dam or similar structure which has become ineffective or damaged without congressional approval but may not rebuild a structure merely to meet expected future increases in traffic without such approval. 33 U.S.C.A. § 5; Rivers and Harbors Appropriation Act of 1899, § 9, 33 U.S.C. § 401.

2. Navigable Waters—7, 22(1)

Standard for determining if proposed project is a reconstruction of a lock and dam or similar structure, in which case no specific congressional approval is necessary, or whether the proposed activity is a rebuilding, for which congressional approval would be needed, is whether the proposed structure represents a material change in the character and capacity of the existing structure. 33 U.S.C.A. § 5; Rivers and Harbors Appropriation Act of 1899, § 9, 33 U.S.C.A. § 401.

3. Injunction—147

Evidence that proposed project by Corps of Engineers in rebuilding lock and dam would change the capacity of the structure from 46.2 million tons to 190 million tons, that the depth and dimensions would be increased, and that increase in size of the lock would be ineffectual unless a number of other locks and dams were also rebuilt, so that plan proposed by Corps was more than likely one for enlargements of an entire system, demonstrated sufficient likelihood that opponents of the project would succeed on claim that the project required congressional approval to entitle opponents to preliminary injunction against the project. 33 U.S.C.A. § 5; Rivers and Harbors Appropriation Act of 1899, § 9, 33 U.S.C.A. § 401.

4. Navigable Waters—7, 22(1)

Fact that Congress appropriated funds for rebuilding of lock and dam did not meet statutory requirement that Congress approve construction of any lock and dam, especially where Corps of Engineers, in seeking the funds had indicated to Congress that the project was one which did not need specific congressional approval. 33 U.S.C.A. § 5; Rivers and Harbors Appropriation Act of 1899, § 9, 33 U.S.C.A. § 401.

5. Health and Environment—25.5

National Environmental Policy Act requires that agencies of the federal government consider the impact of an overall program and not just isolated aspects of facilities. Environmental Policy Act of 1970, §§ 2 et seq., 102, 42 U.S.C.A. §§ 4321 et seq., 4332.

6. Health and Environment—25.10

Even though future action has not been finalized, if it is envisioned, agency proposing the action must consider the environmental impact of subsequent actions in furtherance of the program and include such considerations in its environmental impact statement. Environmental Policy Act of 1970, § 102, 42 U.S.C.A. § 4332.

7. Health and Environment—25.10

Where proposed lock and dam would provide for more than a tripling of the amount of traffic on waterway and where Corps of Engineers conceded that other locks and dams in the system would require modification or rebuilding, Corps violated National Environmental Policy Act by failing to prepare a detailed environmental impact statement encompassing the systematic impact resulting from the rebuilding of lock and dam under consideration. Environmental Policy Act of 1970, § 102, 42 U.S.C.A. § 4332.

8. Health and Environment—25.10

Environmental impact statement which was issued in connection with proposed construction of lock and dam on waterways and which mentioned alternatives in the form of possibility of other modes of transportation meeting the expected increase in traffic of goods only by making conclusory statements to the effect that other forms of transportation could not handle the increase in the traffic and would cost more to shippers failed to adequately consider feasible alternatives as required by the National Environmental Policy Act, Environmental Policy Act of 1970, § 102, 42 U.S.C.A. § 4332.

9. Navigable Waters 22(1)

Rivers and Harbors Act of 1970 applied to proposed reconstruction of lock and dam on Mississippi waterway where the proposal had not been authorized by Congress and would drastically increase the tonnage which the lock and dam were capable of handling in a given year. * * * Act Dec. 31, 1970, § 122, 84 Stat. 1823; Flood Control Act of 1970, § 209, 42 U.S.C.A. § 1962-2.

10. Injunction 89(1)

When federal statutes have been violated, court should not inquire into traditional requirements for equitable relief before granting an injunction.

11. Health and Environment 25.5

Opponents of proposed reconstruction of lock and dam on Mississippi waterway who were likely to be successful on merits of suit which was based on violation of statutes requiring congressional approval for building of locks and dams and violation of Environmental Policy Act were entitled to preliminary injunction against the project where failure to grant the injunction would result in irreparable harm to the environment and economic harm to the opponents, some of whom were railroads which competed with shippers on the river. Rivers and Harbors Appropriation Act of 1899, § 9, 33 U.S.C.A. § 401; Environmental Policy Act of 1970, § 102, 42 U.S.C.A. § 4332.

Joseph V. Karaganis, Jon T. Brown, Sanford R. Gail, Joseph D. Feeney, Jr., Chicago, Ill., for plaintiffs.

Irwin Schroeder, Jr., Washington, D.C., Atty., Dept. of Justice, E. Manning Selzer, Gen. Counsel, Army Corps of Engineers, Washington, D.C., for defendants; Fred R. Disheroon, Asst. Gen. Counsel, Corps of Engineers, Washington, D.C., of counsel.

MEMORANDUM OPINION

Charles R. Richey, District Judge.

This case is before the Court on Plaintiff's Motion for a Preliminary Injunction to prevent the Defendants from constructing a 3.2 billion dollar Upper Mississippi River Navigation System and its first component, Locks and Dam 26, located at Alton, Illinois.

On August 6, 1974 two actions were filed in this Court by the Izaak Walton League of America, et al. and the Atchison, Topeka and Santa Fe Railway Company, et al.[1] against Howard H. Callaway, Secretary of the Department of the Army, the Army Corps of Engineers, and Lieutenant General William G. Gribble, Chief of Engineers, Department of the Army. On the same day, United States District Judge Howard F. Corcoran issued a temporary restraining order prohibiting the letting of bids for the proposed Locks and Dam 26. On August 20, 1974, this Court

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Footnotes at end of article.

granted the Plaintiffs' Motion to Consolidate the two cases and a hearing was held on the Motion for a Preliminary Injunction. This Court is now faced with the important task of deciding questions of national importance in that they involve a substantial environmental, economic, and social impact upon the entire inland waterway system of the midwestern United States, and the manner by which similar projects in other parts of the nation will be handled in the future by Congress and the Army Corps of Engineers.

I. BACKGROUND

Locks and Dam 26 is one of a series of locks and dams extending from Alton, Illinois to St. Paul, Minnesota. Together, these twenty nine locks and dams make commercial traffic possible on the Upper Mississippi River and the Illinois Waterway. Locks and Dam 26, however, as the Defendants have recognized, is the pivotal crossroads of this river complex. This is because it is the first locks and dam to the Upper Mississippi River and serves as the gateway of all commerce. This is not an overstatement. Locks and Dam 26 is a key intersection affecting the total inland waterway system of America's breadbasket. All traffic from the Upper Mississippi River and Illinois Waterway must pass through these locks on its way west on the Missouri River, east on the Ohio River, and south on the Lower Mississippi River.[2]

The existing Locks and Dam 26 was originally authorized by Congress in the 1930's and was operational by 1938. At the present time, it has fallen into an alleged state of deterioration. In 1968, in recognition of the condition of the structure, a report prepared by the Army Corps of Engineers was submitted to the Board of Engineers for Rivers and Harbors and the Secretary of the Army recommended that a new structure, located two miles downstream, be built to replace the existing facility. Agency approval was given in 1969, and in 1970 Congress appropriated funds for planning. A survey Report and a General Design Memorandum were prepared, followed by a Draft Environmental Impact Statement. In 1974, a Final Environmental Impact Statement was released. And, after hearings before both the House and Senate Subcommittees on Appropriations (Public Works), Congress, on August 15, 1974, appropriated over twenty-two (22) million dollars for the project.[3] This money, say the Defendants, will go to the construction of a coffer dam,[4] the first major step toward the building of a new Locks and Dam 26. This will take over nine months. The entire structure will not be completed for at least eight years, although the Defendants admit that it will probably be closer to eleven years before the entire facility is operational.[5] The total cost of the project has been estimated by the Defendants to be over 383 million dollars.[6]

II. ISSUES

The gravamen of the Plaintiff's claim is that the proposed Locks and Dam 26 is merely the first step in a multibillion dollar project to rebuild the Upper Mississippi River System without specific authorization from Congress in violation of 33 U.S.C. § 401.[7] Specifically, the Plaintiffs maintain that the Army Corps of Engineers intends to rebuild the entire system because 1.) the dramatic increase in size and capacity of the new Locks and Dam 26 will so affect the other structures that it will necessitate their rebuilding, 2.) the life expectancy of the entire system, not just Locks and Dam 26, is nearing its end, and 3.) the Corps in other documents, specifically the Upper Mississippi River Comprehensive Basin Study of 1970 (Appendix J), has indicated that the building of a new Locks and Dam 26 will require numerous other structures, or modification of existing structures, in order to cope with the increased capacity.

Plaintiffs further claim that the Army Corps of Engineers has violated Section 209 of the Rivers and Harbors Act of 1970,[8] in that the Corps 1.) ignored the objectives of national economic development and environmental protection, 2.) improperly and inadequately assessed the benefits and costs of the project and, 3.) failed to consider feasible alternatives. Coupled with the above claim, Plaintiffs allege that the Army Corps of Engineers has also violated Section 122 of the Rivers and Harbors Act of 1970[9] by not examining possible adverse economic, environmental, and social effects of the project. And, finally, the Plaintiffs assert that the National Environmental Policy Act of 1969 (hereinafter NEPA)[10] has been abridged because the Army Corps of Engineers has insufficiently analyzed and assessed the environmental impact of the proposed Locks and Dam 26 and the system-wide rebuilding. It is Plaintiffs claim that the Corps has illegally attempted to segment the system so as to facilitate its justification and to hide its true intent to rebuild the system from the Congress and the public. Furthermore, Plaintiffs state that the Corps has transgressed the mandates of NEPA by: failing to disclose the data used to prepare the Environmental Impact Statement (hereinafter EIS), thereby impeding public and Congressional scrutiny of the project, using unrealistic and outdated data and thereby rendering the EIS analysis and assessment arbitrary and capricious and because it fails to analyze alternatives or their environmental impact.

The Defendants contest these claims and allege that the proposed rebuilding of Locks and Dam 26 does not need the consent of Congress, but rather is specifically permitted by 33 U.S.C. § 5.[11] The Defendants, in the alternative, maintain that even if Section 5 were found to be inapplicable, recent Congressional appropriations are sufficient, albeit implied, authorization for a new Locks and Dam 26. The Defendants strongly protest that this is not a multibillion dollar project encompassing numerous structures, but rather, is singular in nature, even though they admit that other projects are being considered. In response to the alleged violations of Sections 122 and 209 of the Rivers and Harbors Act of 1970, the Defendants argue that Section 122 is inapplicable because the project was authorized prior to the enactment of the statute thereby exempting the project from its requirements and that, regardless of this technicality, the Corps has given adequate treatment to the factors contained in Sections 122 and 209.

The Defendants also dispute the claimed violations of NEPA on the grounds that the plaintiffs have not borne their burden of proving a lack of reasonable, good faith compliance and that the EIS is sufficient because the alleged omissions were considered and discussed in an appropriate manner and because the Corps had a right to omit certain information as beyond the scope of reasonable concern.

III. DISCUSSION

A. The proposed locks and dam 26 at Alton, Illinois, requires the consent of Congress under 33 U.S.C. § 401 and may not be built without authorization under 33 U.S.C. § 5.

In order to decide whether Congressional consent is required, the relationship between 33 U.S.C. §§ 5 and 401 must be examined and understood. Under the latter Section, Congressional consent is required before the commencement of construction of *any* dam or other structure in a navigable river of the United States.[12] The word *any*, in regard to this case, is crucial. On its face, Section 401 would appear to prohibit the building of any structures, even by the Federal government, without prior Congressional approval. However, Section 5 permits the Army Corps of Engineers to entirely reconstruct a dam or other structure, that is to build a dam or other structure in place of an existing structure, without the consent of Congress when, due to its condition, reconstruction is "absolutely essential" to its efficient and economical maintenance and operation, and further permits the Corps to make modifications in plan and location as "may be necessary to provide adequate facilities for existing navigation." Thus the word *any* in Section 401 is qualified by Section 5, to the extent that the criteria of Section 5 are met. A critical distinction can, therefore, be drawn between reconstructing under Section 5 and what may be characterized as rebuilding under Section 401, the latter term being a designation for those replacement structures which do not meet the criteria of Section 5.

The Defendants would have this Court hold that since the present Locks and Dam 26 is considered by the Corps to be obsolete, its replacement is within the ambit of Section 5, requiring no specific authorization.[13] This argument hinges on the word "existing" in Section 5. It is the Defendants' contention that this term encompasses future traffic needs since it would be illogical for Congress to allow for a structure that would be obsolete on the drawing board. While this Court agrees that Congress did not legislate planned obsolescence, the agency's position must be rejected as there are compelling reasons that it is wrong. *See* Wilderness Society v. Morton, 156 U.S. App. D.C. 121, 479 F.2d 842, 865 (1973).

[1] What the Defendants have failed to appreciate is the consequence of their position. If the Army Corps of Engineers can replace any existing structure merely because it considers it to be obsolete, then not only would there be no distinction between Sections 5 and 401, but also there would be raised the specter of an unlawful delegation of legislative power. The plain meaning of Section 5 prohibits this Court from adopting the Defendants' interpretation. Section 5 is essentially a maintenance provision. *It does not give the Corps a right of replacement in perpetuity.*[14] Section 5 permits a reconstruction only when it is "absolutely essential", and only allows a modification in plan and location when it is necessary to meet the needs of "existing" navigation. The clear meaning of the Section is that the Corps may *replace* a structure which has become ineffective or damaged, but may not *rebuild* a structure merely to meet expected future increases in traffic. In essence, only Congress can authorize such a project.[15]

The Defendants argue that Section 5 should be given a broader interpretation. They contend that this is possible if the word "existing" is interpreted to include future traffic. The word "existing" in the statute, however, connotes the present and not the future. This is its plain meaning and there is no legislative history to the contrary. Although this may appear to the Defendants as unduly restrictive, when Section 5 is read in conjunction with Section 401, it is apparent that all the Corps has to do to build a new structure to replace one that has allegedly become obsolete is to obtain the consent of Congress. It is understandable that Congress reserved such a decision to itself as in many instances, it would entail, as does the instant matter, considerations which would substantially affect the environment, the economy, and the society of the nation. The Corps has admitted that this is "the largest construction project in the history of the mid-west." EIS at 138. It is impossible for this Court to believe that Congress would permit the decision to proceed to be made by the Corps and not by Congress.

Footnotes at end of article.

It must be recognized that there is a discernible line between *reconstructing* and *rebuilding*. It can be ascertained by determining whether the proposed structure represents a material change in the character and capacity of the existing structure. In the case of Gulf, C. & S. F. Ry. Co. v. Meadows, 56 Tex.Civ.App. 131, 120 S.W. 521, 524 (1909) a Texas court stated:

"Appellant in its pleadings and brief claims that it was repairing an old bridge, but the truth of the matter is that it tore down an old wooden bridge, and placed in its stead a new steel structure. It was engaged in the construction of a new bridge, as much so as though no other bridge had ever spanned the river. It would not matter when the original bridge was constructed, whether before or after the enactment of the federal statute, when it undertook to erect a new bridge of different construction and different material, it was subject to the provisions of [Section 401]."

Thus it may be said that one of the basic factual questions in this case is whether the proposed structure is one of *"wood"* or one of *"steel"*. Since this is on motion for a preliminary injunction, the Plaintiffs must show that there is a likelihood that they will prevail on the merits in their contention that the proposed structure is of the latter type.

B. The plaintiffs have shown a likelihood that they will prevail on the merits under section 401.

[2] As previously stated, the standard for determining if the proposed Locks Dam 26 is a reconstruction or a rebuilding is whether the proposed structure represents a material change in the character and capacity of the existing structure. The Plaintiffs have adduced sufficient evidence to convince this Court that it is likely that they will prevail on their allegation that the Defendants have violated 33 U.S.C. § 401.

[3] First, the Plaintiffs have clearly shown, and, the Defendants have admitted, that the character and capacity of the proposed Locks and Dam 26 will be substantially increased. The present "practical capacity" of the existing structure is 46.2 million tons.[16] The proposed structure will accommodate 190 million tons.[17] While the design of the new structure will be similar to the existing one, the depth and dimensions will be increased to create a greater "practical capacity".[18]

There is, however, a dispute as to the depth of the channel. The Corps maintains that it will be nine feet[19] whereas other agencies and the Plaintiffs claim that it will be twelve feet.[20] While this Court is willing to accept the Corps representations, it is cognizant of the fact that the twelve foot channel has been and still is under considerations.[21] And, as the record reveals, the character of the proposed structure makes it amenable to such change.[22]

Second, the Plaintiffs have met their burden on the issue of whether this is a singular or systemic rebuilding. This Circuit has refused to accept *post hoc* rationalizations of agency action and will scrutinize the record to determine its true intention. See, Scientists Inst. For Pub. Info., Inc. v. A.E.C., 156 U.S. App. D.C. 395, 481 F. 2d 1079, 1095 (1973). While in its representations to the Congress and in its responses to comments in the Final EIS the Corps rejected the contention that it is undertaking a system-wide improvement project, the record is replete with contrary indications.

In the Final EIS the Corps has conceded that: "Few water resource projects compare in scope and extent with this project, and its construction must be considered a major expenditure of public funds."[23] The Defendants maintain that this refers only to the proposed Locks and Dam 26. While this is arguable, its meaning is illuminated by the following statement from the Draft EIS:

"There are at present some constraints to the realization of this prediction in that other locks in the system would be overloaded before such tonnages could be reached. Thus, considering the impact of the project under existing conditions—that is, utilizing the other existing locks and dams in the system—the tonnages that could be shipped on the upper Mississippi River and Illinois River would be constrained to present capabilities of other locks in the system. To be able to carry the amount of cargo forecast will necessitate alteration or replacement of other locks and dams in the system.

The construction of replacement Locks and Dam No. 26 will, therefore, create impetus to revise other portions of the system to create the most efficient utilization of the added capacities of Locks and Dam No. 26."[24]

Upon a thorough reading of the EIS and the General Design Memorandum No. 2 (hereinafter GDM), this Court has found even subtler indications too numerous and complex to recount. An example will suffice. In Exhibit 15, Sheet 4 of the GDM appears a conclusion that the twenty-one foot depth of the proposed lock chamber will provide for a twelve-foot navigation channel. But, to the contrary, in the EIS it is stated that a twenty-one foot depth in the lock chamber is insufficient to accommodate continuous traffic which requires a twelve-foot navigation channel, although such traffic could be passed through the locks with some delay. The Corps would have this Court conclude that the twelve-foot channel has therefore been rejected and that no system-wide improvements to such effect are contemplated by the proposed Locks and Dam 26. This contention is unworthy of belief in light of the following reasons. First, most of the traffic at present and in the near future does not require a twelve-foot channel. Second, those that do would not disrupt the flow of commerce to such an extent that the proposed structure must be considered an isolated improvement. And, third, as this Court already noted, the structure is conducive to the eventual accommodation of continuous traffic requiring a twelve-foot channel. Furthermore, the Plaintiffs have also shown that they are likely to prevail upon their contention that the proposed Locks and Dam 26 is *not* "absolutely essential". The record reveals that while the existing structure may be said to be deteriorating, "remedial measures have been accomplished to correct the more serious deficiencies."[25] And, more importantly, it has been shown that the existing structure can be refurbished so as to extend its life for fifty years at an estimated cost of 100 million dollars,[26] compared to the 383 million for the new structure. The Corps claims that a new structure is still absolutely essential because of the present delays in passing traffic through the Locks. These present delays, however, have been shown to be easily remedied.[27]

Upon a careful examination of the voluminous record presented to date in this case, it is the conclusion of this Court that the Plaintiffs have successfully demonstrated that they are likely to prevail upon their contention that the Proposed Locks and Dam 26 is in violation of 33 U.S.C. § 401.

C. The Proposed Locks and Dam 26 has not been authorized by Congress even though Congress has appropriated funds for the project.

As this Court has found that the Defendants cannot rely on 33 U.S.C. § 5, the issue remains whether Congress has approved the proposed rebuilding of Locks and Dam 26.

The Defendants argue that because Congress has appropriated funds for the project, it has therefore given its consent. The Defendants, however, in the hearings before Congress and in all of their public documents, including the EIS, have continually asserted that this is a Section 5 project which does not need specific congressional authorization.[28] What in essence the Defendants now argue is that Congress ignored these assertions and authorized the project under Section 401. Such a contention is not only unpalatable, but is also erroneous as a matter of law. While some legislators did question under which statute the Defendants were proceeding,[29] they had a right to rely on the Defendants representations that this was a Section 5 project. For, legislators voting for appropriations have the right to assume that the agency had been following and will follow the law. *See*, E. D. F. v. Froehlke, 473 F.2d 346, 355 (8th Cir. 1972).

[4] This Court cannot agree that the mere appropriation of funds meets the statutory requirement for Congressional consent under Section 401.[30] It is a general principle that Congress cannot and does not legislate through the appropriation process. This principle has been codified in Rule XXI of the Manual of the House of Representatives, which provides in pertinent part:

"2. No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless on continuation of appropriations for such public works or projects as are already in progress."

Thus, an authorization bill would be necessary at the least for Congressional consent under Section 401. And, Locks and Dam 26 would not come under the exception since it is not a project already in progress. On this point, House Rule § 836 must also be considered:

"Previous enactment of items of appropriation unauthorized by law does not justify similar appropriations in subsequent bills unless if through appropriations previously made a function of the government has been established which would bring it into the category of continuation of works in progress."

Furthermore, the fact that no point of order was raised to the recent appropriation is not indicative of authorization, nor on the basis of § 836 can the previous appropriations provide such an indication. Therefore, this Court concludes that the proposed Locks and Dam 26 does not have the "consent" of Congress under 33 U.S.C. § 401.[31]

D. The defendants have violated the Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq., by not preparing a "detailed statement" encompassing the systematic impact resulting from the rebuilding of Locks and Dam 26.

[5] The National Environmental Policy Act of 1969, 42 U.S.C. § 4332 requires that agencies of the Federal government consider the impact of an overall program and not just isolated aspects of facilities.[32] A restricted impact analysis is prohibited because it "would frustrate the vitality of NEPA by allowing piecemeal decisions."[33] Thus, an agency may not engage in segmentation, i.e. "an appraisal of each tree to one of the forest."[34]

A bone of contention in this case has been whether the rebuilding of Locks and Dam 26 represents the first step in a system-wide improvement of the Upper Mississippi River and the Illinois Waterway. While it has already been found that the Plaintiffs are likely to prevail upon this assertion, there

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is an additional reason why this Court must conclude that the Defendants have been guilty of segmentation.

[6, 7] The concept of segmentation encompasses more than prohibiting the mere artificial division of the program, it also requires that the Courts guard against an agency's considering only the immediate impact of the first step in a program.[35] The intent of Congress was to have NEPA effect the earliest deliberations of proposed actions.[36] Therefore, even though future action has not been finalized, if it is envisioned then the agency must consider the impact of subsequent actions in furtherance of the program. In the instant case, the proposed Locks and Dam 26 will provide for more than a tripling of the amount of traffic on the Upper Mississippi and the Illinois Waterway. Yet, the Final EIS includes an analysis of only the immediate and local impact of the project. This is so despite the fact that the Corps concedes that due to the increased capacity of the proposed structure other locks and dams in the system will require at least modification or rebuilding. This Court must therefore conclude that the Defendants have violated NEPA by failing to prepare a detailed statement encompassing the systematic impact resulting from the rebuilding of Locks and Dam 26.

This is not to say that the Corps must prepare a complete impact statement now for all future action that it intends to take in furtherance of the program. Rather, the Corps must identify and analyze the environmental impact the proposed structure and increased traffic will have on the entire Upper Mississippi River system and Illinois Waterway. The Defendants, however, argue that studies are being performed on this subject, and that on the basis of present information it is believed that there will be little risk of environmental damage, and that unexpected environmental effects from increased traffic can be controlled or eliminated. While this may be true, none of this was included in the EIS and, more importantly, none of the data on which these statements and conclusions are based is set forth in the EIS for congressional and public scrutiny. What the Defendants fail to comprehend is that the rule against segmentation requires government agencies to recognize the interrelationship of environmental effects at the formative stage.[37]

The Defendants argue that even though there may be a cumulative environmental impact segmentation is permissible since Locks and Dam 26 meets the test set forth in the recent case of Sierra Club v. Callaway, 499 F. 2d 982, 1974. (Wallisville Project). The Fifth Circuit Court of Appeals in determining whether the Wallisville Project was a component, increment or first segment of the larger Trinity River Project, stated that the issue of segmentation should be decided on a case by case basis considering the factors of the scope of the project, the timing of the project, and the interdependence of the project to the overall program. While these are not the only factors to consider in this case, upon an application of the factors set forth in the Wallisville case, this Court finds that Locks and Dam 26 is not susceptible to a segmented analysis.

First, the Corps has stated openly that the proposed Locks and Dam 26 is the largest project undertaken in the midwest and will cost over 383 million dollars—a major expenditure of public funds to say the least. The decision to expand the capacity of this part of the Upper Mississippi River Navigation System, which includes the Illinois Waterway, from 46 to 190 million or more tons is, in essence, the decision to expand the capacity of the entire system. It is this decision that will necessitate the improvement of other segments of the system. Thus, Locks and Dam 26 is to the other parts of the Upper Mississippi system what the Trinity River Project is to the Wallisville Project, not visa-versa.

Second, the proposed Locks and Dam 26 is just on the verge of implementation as opposed to the Wallisville Projects which is near completion. Despite this fact, the Defendants argue that this case is similar to Wallisville in that not only has Congress not appropriated funds for the other segments but also they will take at least fifty years to complete. And, they add that segmentation in this case is essential because the structural integrity of the existing Locks and Dam 26 is in doubt making it a priority project. This Court is not persuaded that these are sufficient reasons to allow segmentation. While it is true that Congress has not appropriated funds, the proposed structure, as the Corps admits in the Final EIS, will necessitate system-wide improvements. Further, the rebuilding of Locks and Dam 26 itself will take approximately a decade, and will therefore require that the existing structure be maintained until it will be replaced. The Corps implores that they be allowed to replace the structure and will later examine its systemic impact. This is exactly what NEPA seeks to prevent.

While this Court has sufficiently dealt with the question of interdependence in its discussion of the previous issues, one further comment is necessary. This Circuit, in Scientists Institute, *supra*, 481 F.2d at 1087, noted that: "Individual actions that are related either geographically or as logical parts in a chain of contemplated actions may be more appropriately evaluated in a single, program statement."

This perception is particularly applicable in this case. Although it is conceivable that no further improvements of the Upper Mississippi River system may occur, the fact that improvements are expected requires a present evaluation of their future impact.[38] This Court cannot allow the Defendents on the one hand to segment the project and ignore the systemic impact and on the other cite as the justification for the increased capacity of the proposed structure the need for expansion of the capacity of the entire system.

E. The defendants have violated NEPA by failing to adequately consider alternatives to the proposed action and by failing to disclose essential data.

[8] In order to determine whether the EIS demonstrates an adequate assessment of alternatives to the proposed action, this Court has sought to ascertain the primary purpose of the project.[39] Although the Defendants have focused upon the deteriorating condition of the existing structure so as to bring the project within 33 U.S.C. § 5, it is the conclusion of this Court that the primary purpose is to expand the facility's capacity to meet the expected increase in traffic on the Upper Mississippi River and Illinois Waterway.[40]

Even though the primary purpose is expansion, the EIS restricted its consideration of alternatives to "no action", different types of construction, and changes in location.[41] The only references in the EIS to the possibility of other modes of transportation meeting the expected increase in traffic of goods are the conclusory statements that: railroads and other forms of transportation could not handle the increase in traffic of goods, especially grain, would require greater public investment, would cost more to shippers, would, by stifling industrial growth, have an adverse economic and social effect on the region, and would require greater energy consumption in light of the projected availability of fuels.[42]

While this Court is not in a position to agree with or dispute the merits of these conclusions, neither is the Congress nor the public since the data on which they were based and the agency's reasoning process were not included in the EIS. This is contrary to the policy of NEPA, which has been called an "environmental full disclosure law." E. D. F. v. Corps, 325 F.Supp. 728, 759 (E.D. Ark. 1971). What the lack of disclosure in this case does is to prohibit review by masking the reasons upon which the initial choice has been made between rebuilding or relying on existing structures and alternative modes of transportation. This is a clear violation of NEPA. *See*, Committee to Stop Route 7 v. Volpe, 346 F.Supp. 731 (D.C.Conn 1972).

Upon an examination of the EIS, this Court must conclude that it fails to adequately consider feasible alternatives. It is apparent to this Court that this is another case in which the agency has limited its consideration to only those alternatives that it can adopt. *See*, N. R. D. C. v. Morton, 148 U.S. App. D.C. 5, 458 F.2d 827 (1972). Such violations of both the letter and spirit of NEPA can not be tolerated.

F. The alleged violations of sections 209 and 122 of the Rivers and Harbors Act of 1970 are cognizable by this Court.

[9] As it has been found that the proposed Locks and Dam 26 has not been authorized by Congress, this Court holds that Section 122 of the Rivers and Harbors Act of 1970 does apply to the proposed project. However, since the requirements of Sections 122 and 209 are similar to those of NEPA,[43] it is unnecessary at this stage in the proceedings to examine in depth the Plaintiffs' allegations in this respect as this Court has found NEPA to have been violated.

G. The injunction must issue as Federal statutes have been violated and the Plaintiffs have shown likelihood of success and irreparable harm.

[10] When, as in the present case, federal statutes have been violated, it has been the long standing rule that a court should not inquire into the traditional requirements for equitable relief. *See*, United States v. City and County of San Francisco, 310 U.S. 16, 60 S.Ct. 749, 84 L.Ed. 1050 (1940). While this Court is bound by that rule, there are other compelling reasons that the injunction should issue.

[11] First, this Court is concerned with the analytical harm to NEPA.[44] The Congressional policy underlying that statute is that agencies which propose major federal action consider the national environmental and societal interest. Since NEPA has been violated, this Court cannot allow the proposed Locks and Dam 26 project to proceed until the agency properly determines the reasonable alternatives, and thus where the national interest lies.

Second, the Plaintiffs have shown not only that they are likely to succeed on the merits but also that they will suffer irreparable harm which outweighs any injury the Defendants would bare. If the proposed project is not consented to by Congress, then the injury to the environment, which the Defendants admit will occur, will be needless. Further, the Plaintiffs Railroads, being already in a tenuous financial position, would be unnecessarily harmed, perhaps even collapse, if the unauthorized expansion of the Upper Mississippi River and Illinois Waterway is allowed to proceed.

And finally, this Court is sensitive to the fact that the public interest lies with both parties. On the one hand, the public is concerned with maintaining the environment as well as the existence of the numerous

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midwestern railroads, and on the other, with the traffic delays and structural integrity of the existing Locks and Dam 26 as well as the free flow of commerce up and down the Upper Mississippi River and Illinois Waterway. Moreover, the public is concerned with the economic and social effect on the region. Having considered these interests, it is the opinion of this Court that the injunction must be granted. The project will be delayed only until the Defendants obtain the consent of Congress and cure the defects in the EIS. This will take a relatively short period of time considering that just the building of the new Locks and Dam 26 will take at least a decade, and until then the existing structure will have to be maintained.

An order in accordance with the foregoing has been issued.

FOOTNOTES

[1] The other Plaintiffs consist of twenty, mid-western railroads, the Sierra Club of America, and the Illinois branch of the Isaak Walton League.

[2] The following map from the Final Environmental Impact Statement on Locks and Dam 26 shows the Mississippi Inland Waterways System and the proposed project site at Alton, Illinois. See page 613 for map.

[3] This appropriation was part of a general appropriations bill passed by the House of Representatives on August 13, 1974 and by the Senate on August 15, 1974.

[4] A coffer dam is an enclosure from which water is pumped thereby exposing the bottom of the river to permit construction.

[5] *See,* Final Environmental Impact Statement, Locks and Dam 26, at 3 (i. ii. i.).

[6] Id., at 2, 11.

[7] Section 401 provides that:

It shall not be lawful to construct or commence the construction of any bridge, dam, dike, or causeway over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained, and until the plans for the same shall have been submitted to and approved by the Chief of Engineers and by the Secretary of the Army:

Provided, That such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Chief of Engineers and by the Secretary of the Army before construction is commenced: *And provided further,* That when plans for any bridge or other structure have been approved by the Chief of Engineers and by the Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless the modification of said plans has previously been submitted to and received the approval of the Chief of Engineers and of the Secretary of the Army.

[8] 42 U.S.C. § 1962–2.

[9] Pub. Law 91–611, 84 Stat. 1823 (1970).

[10] 42 U.S.C. § 4321 et seq.

[11] 33 U.S.C. § 5 provides in pertinent part that:

[F]or the purpose of preserving and continuing the use and navigation of said canals and other public works without interruption, the Secretary of the Army, upon the recommendation of the Chief of Engineers, United States Army, is authorized to draw his warrant of requisition, from time to time, upon the Secretary of the Treasury to pay the actual expenses of operating, maintaining, and keeping said works in repair, which warrants or requisitions shall be paid by the Secretary of the Treasury out of any money in the Treasury not otherwise appropriated: *Provided,* That whenever, in the judgment of the Secretary of the Army, the condition of any of the aforesaid works is such that its entire reconstruction is *absolutely essential* to its efficient and economical maintenance and operation as herein provided for, the reconstruction thereof may include such modifications in plan and location as may be necessary to provide adequate facilities *for existing navigation:*

Provided further, That the modifications *necessary to make the reconstructed work conform to simlar works previously authorized by Congress* and forming a part of the same improvement, and that such modifications shall be considered and approved by the Board of Engineers for Rivers and Harbors and be recommended by the Chief of Engineers before the work of reconstruction is commenced . . . . (Emphasis added)

[12] While the original purpose of Section 401 was to assert the federal power over the nation's waterways so as to prevent obstructions to navigation by states and private parties, it has been held to apply to the Federal government. *See,* United States v. Arizona, 295 U.S. 174, 55 S.Ct. 666, 79 L.Ed. 1371 (1935).

[13] The Defendants maintain that the facility must be considered obsolete because it is experiencing structural deterioration and has reached its capacity to adequately serve the present and future traffic needs of the Upper Mississippi River System.

[14] Cf. Northwest Paper Co. v. F. P. C., 344 F.2d 47, 50–1. (8th Cir. 1965).

[15] The Commission on Organization of the Executive Branch has been critical of the Corps' expanded interpretation of Section 5. Commenting on a project similiar to the proposed Locks and Dam 26, the Commission stated:

"The Locks proposed to be installed are not replacements, but constitute a new navigation improvement program for these rivers. The Ohio River project currently contemplates the replacement of 9 dams having locks of low lift by 3 dams having locks of lift equivalent to the existing 9. Although the project channel depths are authorized for 9 feet, the new locks will provide for at least 12-foot depths. The issue which we raise is not as to the engineering soundness of the project, but as to the authority of the Corps of Engineers to proceed without specific authorization. No decision of a court or opinion of the Department of Justice is cited to support the construction of this statute. While the statute authorizes the Corps of Engineers to replace or reconstruct obsolete or worn-out works, it is stretching it too far to find in it authority to proceed with such programs as are contemplated on the Ohio and Warrior-Tombigbee."

[16] EIS at 3.

[17] *Id.* at 4.

[18] *Id.* at 5, 136–37. "Practical capacity", as this Court understands the term, means the amount of traffic, in tons, that can pass through the Locks without undue delay in the course of one year.

[19] The Defendants point specifically for support to the discussion at page 137 of the EIS.

[20] The Plaintiffs, in support of their contention, emphasize, *inter alia,* that the General Design Memorandum No. 2 proposal was for a twelve foot channel. GDM at 2–1. Further, they point to the letter of Assistant Secretary of the Interior Nathaniel P. Reed, dated August 5, 1974, to Secretary of the Army Howard H. Callaway, which reveals Interior Department concern that the Corps intends to construct an unauthorized twelve foot channel.

[21] EIS at 14.

[22] *Id.* at 137–38.

[23] *Id.* at 179.

[24] Draft EIS at Three-18. A similar statement appears in the GDM at A–17.

[25] EIS at 3.

[26] Id. at 150. The capacity, however, would remain at its present level.

[27] See, Affidavit of Dr. Joseph L. Carroll. The true concern of the Corps is the future delays created by the existing structure.

[28] *See,* Statements of Colonel Hall before the Senate Subcommittee of the Committee on Appropriations, October 13, 1969, p. 6803; EIS at ?; GDM at 1–1.

[29] *See,* Statement of Senator Allen J. Ellender, Chairman, Subcommittee of the Committee on Appropriations, October 13, 1969, at 6802–3.

[30] The Defendants' reliance on Orlando v. Laird, 443 F.2d 1039 (2d Cir. 1971) is misplaced. Although the Second Circuit did reject the appellant's contention that "congressional authorization (for the Viet Nam war) cannot, as a matter of law, be inferred from military appropriations," it held that the manner by which Congress declared was a political question. Id. at 1043. Moreover, this Court can find no support for the Defendants' position that appropriations are sufficient authorization in this matter in the *Laird* opinion.

[31] This Court is also of the opinion that 42 U.S.C. § 1962d–5 may not have been complied with in this matter. That Section requires that any water resource development project over ten (10) million dollars (first cost) be approved by resolutions of the Committees of the House and Senate on Public Works. The parties have not shown that such resolutions were or were not passes. However, since this Court has found that Section 401 has not been complied with, a determination of this issue is not necessary for a decision on the motion for a preliminary injunction.

[32] *See,* Scientists, Institute for Public Information v. A. E. C., 156 U.S. App. D.C. 395, 481 F.2d 1079, 1086–1087 (1973).

[33] Sierra Club v. Froehlke, 359 F. Supp. 1289, 1323 (S.D. Tex. 1973).

[34] Jones v. Lynn, 477 F.2d 885, 891 (1st Cir. 1973).

[35] *See,* Indian Lookout Alliance v. Volpe, 345 F. Supp. 1167, 1170 (S.D. Iowa 1972).

[36] *See,* Scientists Institute, *supra,* 481 F.2d at 1087–1088.

[37] Id.

[38] If this Court were to scrutinize the proposed Locks and Dam 26 in a vacuum, then it would have to conclude that the Plaintiffs are likely to prove that the environmental injury so outweighs the benefits of the expanded structure as to make the agency's decision to proceed arbitrary and capricious.

[39] *See,* Sierra Club v. Froehlke, 350 F.Supp. 1289, (S.D.Tex.1973).

[40] An examination of the entire record reveals that this is the avowel purpose. For example, see EIS at 4. See also, Upper Mississippi River Comprehensive Basin Study (1970) Table J–32.

[41] *See,* EIS at 149–170.

[42] *Id.* at 150–52.

[43] See text accompanying notes 8 and 9.

[44] *See,* Jones v. D. C. Redevelopment Land Agency, 499 F.2d 502 (D.C.Cir.1974).

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. SYMINGTON. Mr. President, I yield to my able friend the senior Senator from Illinois for a minute.

Mr. PERCY. Mr. President, I thank my distinguished colleague, and my comment will be very brief, indeed.

Mr. President, I do not support deletion of the provision relating to Locks and Dam 26 from the bill before us to-

day as I think it is important to have a clear authorization of this project. I feel that the authorization has been implicit for several years and indeed funds have been appropriated in the past to continue this project, but I would, of course, prefer an unambiguous authorization.

I, of course, am in favor of full hearings on this project and am cosponsoring legislation to be introduced by Senator STEVENSON to specifically authorize this project. In that way all those who have strong feelings regarding this project will have the proper forum to voice their opinions. I am pleased that the chairman of the Public Works Committee has said that public hearings on this specific project will be held later this year.

It is important to clear up this issue as construction of Locks and Dam 26 has been halted by Judge Richey based on whether the proposed Locks and Dam 26 project requires the specific authorization of the Congress. The section in the bill today would make such a specific authorization and I cannot vote for deletion of this section from the bill.

I thank my distinguished colleague from Missouri.

Mr. SYMINGTON. Mr. President, I thank the Senator.

Locks and Dam 26 is the key facility in the entire Mississippi River navigation system. All of the States that border the Mississippi River depend heavily upon the waterway movement through this facility of grains, fertilizers, coal, petroleum products, minerals, and other heavy commodities.

The economic well-being of many of the Nation's farmers, consumers, electric utilities, manufacturers, and businessmen depends to a great extent upon the assurance that this vital waterways traffic in heavy commodities will be accommodated as the commerce and trade of the country continue to grow.

Locks and Dam 26 is more than 35 years old. For the last 5 years the facility has been forced to handle larger tonnages of traffic than its practical design capacity of 46 million tons per year. Delays have resulted, with attendant increases in cost which have had to be passed on to consumers.

The facility needs to be replaced as soon as possible and, from a commonsense point of view, the new replacement facility should be designed and built to accommodate the increased flow of traffic in future years.

Beginning in 1969, 6 years ago, Congress appropriated money specifically for the replacement of Locks and Dam 26, by first making available to the Secretary of the Army money for preliminary design work. In fiscal year 1974 and again in fiscal year 1975, the Congress specifically appropriated funds for the beginning of construction on the project.

In view of the recent decision of the U.S. District Court for the District of Columbia, granting a preliminary injunction preventing the start of construction, however, it is necessary for the Congress to reaffirm the fact that it did give its consent to the project.

Some environmental groups, including the Sierra Club, as mentioned by our distinguished colleague from Wisconsin, are concerned about the possible environmental impact of the construction of this replacement facility.

The U.S. District Court for the District of Columbia retains jurisdiction over this case, and all agencies of the Federal Government and all parties to the case, including the environmental groups, will have an opportunity to review and comment on the expanded environmental impact statement which the court has required the Corps of Engineers to prepare and submit to the court.

We are assured, therefore, that every procedural and substantive safeguard will be observed with respect to environmental considerations, and there will be compliance with every environmental law of the United States.

This locks and dam 26 project will help to stimulate the sagging construction industry in the Midwest, especially in Missouri and Illinois, and will provide jobs for many hundreds of workers. The finished project will provide the Nation with a capital investment of very great value to the entire economy.

On some commodities there is competition among the various modes of transportation—water, rail, and highway—but the fact remains that many of the railroads of the Midwest with the healthiest financial performance parallel the Mississippi waterway, or connect with it at various points.

We need to expand and improve the capability and capacity of all of the elements of our transportation system, and all should be treated fairly.

To that end, we have been and will continue to devote our attention to assistance for the U.S. railroads.

The question now before us, though, is whether to reconfirm the action we have taken six times before, and affirm again, in the pending bill, H.R. 5899, that the Congress does approve the construction of locks and dam 26 and desires the Secretary of the Army to proceed with the project.

Mr. President, because of the nature and the detail into which it has gone, I ask unanimous consent that from the committee report on the second supplemental appropriations bill, 1975, presented by the distinguished senior Senator from Arkansas, pages 72, 73, and 74, that part which includes the details of the reasoning that I have summarized in my statement be printed at this point in the RECORD.

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

ADMINISTRATION PROVISION: LOCKS AND DAM 26, MISSISSIPPI RIVER, ILLINOIS AND MISSOURI

The Committee recommends an amendment in the nature of an administrative provision reaffirming the consent and approval of Congress for the replacement and modification of Locks and Dam 26, Mississippi River, Illinois and Missouri as follows:

Appropriations having been heretofore approved by Congress in Public Laws 91-144, 91-439, 92-134, 92-405, 93-97, and 93-393, to be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, for the replacement and modification of Locks and Dam 26, Mississippi River, Illinois and Missouri, substantially in accordance with the plans approved by the Secretary of the Army on July 14, 1969, the consent and approval of Congress for the construction of said Locks and Dam 26 by the Secretary of the Army having been granted thereby is hereby reaffirmed; Provided, That nothing contained herein shall be construed as authorizing a twelve-foot channel above Locks and Dam 26.

This provision is recommended in light of recent court actions, including a preliminary injunction issued by a judge on the District Court for the District of Columbia against construction of the project replacing and modifying Locks and Dam 26. The judge halted work on the project mainly for two reasons: (1) That the Secretary of the Army and the Corps of Engineers could not proceed with the project without further approval from Congress, as the authority under which the Secretary and the Corps were using (1909 Act hereafter discussed) was not applicable in the Locks and Dam 26 replacement and modification, and (2) That the environmental impact statement on the project was inadequate primarily because the impact on the entire inland waterway navigation system in building the new Locks and Dam 26 was not considered. The provision recommended by the Committee relates to the first reason cited above. Regarding the second reason, the Corps is presently preparing a revised environmental impact statement for the project to include the matters not covered and inadequacies in the present statement. This effort should be completed within the next few months and is subject to the input and actions of interested parties through the normal process.

The 1900 River and Harbor Act (35 Stat. 818; 33 U.S.C. 5), commonly called the 1909 Act, gave the Secretary of the Army authority to replace navigation locks and dams as may be necessary to provide adequate facilities providing such reconstruction conforms to similar works previously authorized by the Congress. Since the enactment of this legislation, the Secretary of the Army has utilized this authority to rehabilitate or replace 16 locks and dams and an additional 8 are being replaced presently. These 24 projects have been done with the knowledge of the Congress and with specific appropriations totaling $1.7 billion. In addition, there are several locks and dams now under design and several others being studied.

Locks and Dam 26 is located just north of St. Louis, Illinois, and presently consists of a 600' x 110' lock and a 350' x 110' lock. This lock and dam was constructed in 1938. It is still operating but is deteriorating and requires extensive maintenance. It is the most significant bottleneck for transportation in the Mississippi system. During summer operation it is not unusual for tows to wait several hours for their turn into and through the locks. The present traffic of approximately 50 million tons per year is projected to increase to 70 million tons by 1980 and 100 million tons 20 years thereafter. For these reasons the Secretary of Army approved on July 14, 1969, the relacement of Lock and Dam 26 and within two days had advised the Public Works and Appropriations Commitees in both House and Senate, of his action. Subsequently funds were included in the President's budgets and appropriated in FY 1970 through 1973 for advance engineering and design.

The Committee recommended and the Congress approved funds to initiate construction of the project in fiscal year 1974. In the current fiscal year (1975), the amount

of $22 million was included in the appropriations bill and was approved by Congress to continue construction of the project. Testimony on the project has been received from Members of the Senate and the House, interested organizations, and the public, in addition to the Corps, every year during the last seven to eight years in connection with the annual appropriation hearings. These annual public hearings are a long standing practice of the Committee.

Based upon these repeated actions by the Committee and the Congress, including the annual appropriations signed into law for the last six fiscal years, there seems to be little question that the Congress has in fact given its consent to this replacement and modification project, and that the Secretary of the Army has acted within the authority granted him.

Locks and Dam 26 is a key, controlling navigation structure of the inland waterway transportation system. All traffic from the upper Mississippi River River must go through the structure. Without it, navigation above St. Louis would come to a standstill. Principally because of its serious deterioration and structural integrity, the Committee recommended and the Congress approved funds for the replacement and modification project over these last six years. The new facility is already five years behind schedule. The impact that would result from the failure of the present structure would be most serious indeed and has not been disputed. The continued delay in replacing the structure will further aggravate the inefficiency of the present system, will increase the cost of the project in the long term, and will incur continuing and rising maintenance investments for a structure that is overworked and 40 years old. Because of the importance of the project, it is not a question of whether it is needed: only when. The testimony and information presented to the Committee over the last several eyars clearly shows the replacement project to be long overdue. In the opinion granting the preliminary injunction, the judge stated that "the project will be delayed only until the defendants (*the Secretary and the Corps*) obtain the consent of the Congress and cure the defects in the EIS."

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

Mr. SYMINGTON. Mr. President, I am glad to yield.

Mr. PROXMIRE. I shall be very brief.

I simply want to support my colleagues on this matter. I agree with him wholeheartedly.

I am deeply concerned with the cost of this operation. As I understand it the cost of this particular lock may be only a few hundred million dollars, but it establishes a situation in which the entire Mississippi, as the junior Senator from Wisconsin points out, would have to be dredged to a 12-foot level which, as I understand it, would cost $5 or $6 billion.

It seems to me that if the authorization function of the Senate should serve any purpose it should serve the purpose of letting us know, when we go into matters of this enormous expenditure, what the expenditure is going to cost; whether the benefits really are there; the realism of the estimated benefits; and giving us a full picture of where we are going.

I think that the argument of the junior Senator from Wisconsin has not been refuted. There may have been an implicit authorization, or may not have been an implicit authorization. There has not been an explicit series of hearings developing a record on which Members of the Senate could thoughtfully make a judgment whether this enormous amount of money should be expended or not expended.

Mr. SYMINGTON. Mr. President, I appreciate the thinking of the distinguished senior Senator from Wisconsin, and because of my respect for him I must say I am quite surprised as to his position.

Mr. STENNIS and Mr. BUCKLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. STENNIS. Mr. President, I yield to the Senator from New York.

I am going to represent the committee when I speak anyway. If he wants to speak first representing his State, all right.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from New York.

Mr. BUCKLEY. Mr. President, I thank my friend from Mississippi.

Mr. President, I wish to comment on that portion of the bill that concerns lock and dam 26, a Corps of Engineers navigation project at Alton, Ill. I shall not oppose this language because I believe it will not affect the important court case on this project.

But I believe it would be instructive to review the history of this work.

In 1909, the Congress passed legislation that permitted the Chief of Engineers to reconstruct navigation projects when "reconstruction is absolutely essential" to the efficient and economical operation of the project, provided that the "reconstructed work conforms to similar works previously authorized."

Since that time, the Corps of Engineers has spent $1.7 billion under the 1909 act to replace or rehabilitate 16 locks and dams. Another 8 are now under reconstruction, 4 are under design, and 11 are under study. Using the 1909 act, the corps is in the process of reducing to 19 from 46 the number of locks on the Ohio River system.

Under this authority, the corps also began planning the reconstruction of locks and dam 26 at Alton, Ill., several years ago.

Mr. President, I yield to my distinguished friend from Massachusetts.

Mr. BROOKE. Mr. President, I ask for the yeas and the nays on final passage?

The PRESIDING OFFICER. Is there a sufficient second to the request?

Mr. STENNIS. Mr. President, will the Chair state the parliamentary situation?

The PRESIDING OFFICER. The yeas and the nays have been requested on final passage, and a sufficient second has been shown.

Mr. BROOKE. I thank my distinguished colleague.

The yeas and the nays were ordered.

Mr. BUCKLEY. Using this authority, the corps also began planning the reconstruction of lock and dam 26 at Alton, Ill., several years ago. The present lock and dam, completed in 1938, is strategically located: Just to the north is the confluence of the Illinois—carrying traffic to Chicago—and Mississippi Rivers; just to the south is the Missouri River, St. Louis, and the gateway to the Ohio and lower Mississippi Rivers.

To meet a problem of lock deterioration and increase river traffic, the corps has designed a replacement dam and a pair of locks that will cost about $400 million, significantly increasng the capacity of the existing locks. While design and construction of the replacement has received money in various public works appropriations bills, it was never individually authorized by the Committee on Public Works.

This replacement work was halted prior to construction by a lawsuit that was filed by Midwest railroads and a group of environmentalists. On January 23, 1975, Army Secretary Callaway asked, in a letter to Chairman RANDOLPH of the Committee on Public Works, for a congressional "reaffirmation or clarification" of the authority of the Secretary of the Army prior to proceeding with the construction of lock and dam 26. Any project that involves an expenditure of nearly $400 million, while increasing a project's capacity by about fourfold, merits authorization as well as appropriations.

Mr. President, I also believe that Congress must reevaluate the 1909 act, a fact on which the Corps of Engineers agrees.

I shall soon introduce legislation to modify the 1909 act provision, limiting it to its intent: modification in the corps' navigation system. While I believe that tl.e corps' work is important in this area, I also believe Congress must clarify the authority of the corps, eliminating the present ambiguities of intent.

I am pleased that the Committee on Public Works has initiated hearings on the navigation program. The chairman of the Water Resources Subcommittee, Mr. GRAVEL, made a field tour of navigation programs last week, including a visit to lock and dam 26. I believe that this effort will assist the Congress in determining the future of an inland navigation program.

While Congress may go forward on lock and dam 26 after it has had a full opportunity for review of the proposal, we must examine this with care in full hearings and in an attempt to develop a rational program for the inland waterway system in the Midwest. Such a review, I believe, will also show inescapably the need for a fair and equitable user charge system on the waterways of this Nation.

I ask unanimous consent that the chapter of the National Water Commission report on inland navigation be printed at this point in the RECORD.

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

THE INLAND WATERWAY PROGRAM[1]

THE PROGRAM

The inland waterway program of the Federal Government had its beginning in 1824 when a small appropriation was made to the

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U.S. Army Corps of Engineers to remove a few snags and sandbars that were interfering with navigation on the Mississippi and Ohio Rivers. Over the ensuing years, many rivers were improved by deepening them or by the construction of systems of locks. The United States now has more than 25,000 miles of commercially navigable waterways. More than 15,000 miles of these waterways have depths of 9 feet or more, and almost 9,000 miles have a depth of 12 feet or more. Of special importance is the system of waterways in the Mississippi River Basin which encompasses almost 9,000 miles of federally improved waterways extending from the Gulf of Mexico to the upper reaches of the Mississippi and Ohio Rivers, to established ports well up on the Arkansas, Tennessee, Cumberland, and Missouri Rivers, and up the Illinois River to connect with Lake Michigan. The Gulf Intracoastal Waterway is another heavily used component of the waterway system of the United States.[2]

Commercial traffic on the inland waterway system, exclusive of the Great Lakes, totaled about 204 billion ton-miles in 1970, which is more than four times the traffic carried by the waterways in 1950. About 36 percent of the tonnage moving over the inland waterways in 1970 was petroleum and petroleum products. Bituminous coal and lignite made up about 21 percent of the tonnage, and grains, grain products, and soybeans about 5 percent.[3] The use of the inland waterways for recreation is increasing rapidly and congestion is becoming a serious problem where recreational craft wish to pass through locks.

During recent years, the inland waterway system has carried about 10 percent of the Nation's total intercity traffic, while about 6 percent of that total has moved on the Great Lakes, 44 percent by rail, 20 percent by trucks, and another 20 percent by oil pipeline. The proportion of the total traffic carried by inland waterways has increased from about 4 percent in 1950 to 10 percent in recent years.

Federal expenditures for the improvement of the inland waterway system had totaled $3.2 billion[4] by June 30, 1971. The cost to the Federal Government of operating and maintaining the system has been running over $80 million annually. Under present policies, the Federal Government usually bears the full construction cost of improving waterways for commercial use, but non-Federal interests are required to provide lands, easements, rights-of-way, and spoil areas and provide and maintain public terminal and transfer facilities.

In 1970, there were 1,849 transportation companies operating on the inland and coastal waterways. Only 141 of these were subject to regulation by the Interstate Commerce Commission. The 1,849 companies operated almost 24,000 vessels of which about three-fourths are unpowered barges.[5] The largest barges now in use have a capacity of 3,000 tons, a load that would fill 55 average sized railroad freight cars or 30 of the big new ones. Barges are joined into "tows" which are generally pushed[6] by diesel-powered towboats. Towboats with powerplants of 4,000 horsepower are fairly common. Such a vessel can handle up to 20,000 tons of freight in a single tow. Towboats with powerplants of 8,500 horsepower have proven practicable on the Mississippi River. Average charges to shippers of moving bulk commodities on the waterways are said to be about 3 mills per ton-mile[7] and average transportation savings over alternative means of transportation have been estimated by the Corps of Engineers to average 5 mills per ton-mile.[8]

Since the beginning of the Federal program in 1824, the Corps of Engineers has been responsible for its planning and execution. In the early years of the Nation, States undertook the construction of waterways. One of the most famous, as well as the most successful, of the State projects was the Erie Canal built by the State of New York. Later, it was rebuilt as the State Barge Canal and is still in operation.[9] However, the other State canal projects have been abandoned or replaced by Federal waterways.

From the beginning of the Federal program, there has been a strong demand for waterway projects in the belief that the "low cost" transportation thus permitted would stimulate economic development in the less developed regions of the Nation. The construction of waterways has also been used as a means of forcing reductions in railroad freight rates. For these and other reasons, many parts of the country still seek projects to make their rivers more navigable. The Corps of Engineers has made reports on a number of potential waterways and the Congress has authorized the construction of an additional 2,351 miles of waterway, the cost of which is presently estimated at $4.6 billion. Other possible waterways not authorized, but supported by the regions that would be benefited, would have an aggregate length of 2,514 miles and, according to preliminary estimates, would cost about $5 billion.[10]

During recent years, a counterforce has come into play in the form of an increased public interest in the impact of waterway construction on the environment. This force has resulted in the stoppage of construction work on one project, the Cross-Florida Barge Canal Project, and in the future it may be much more difficult to obtain authorizations or appropriations for new waterway projects than has been the case in the past.

APPRAISAL OF THE PROGRAM

The Federal inland waterway program has been appraised by many study commissions and similar bodies since its beginning almost a century and a half ago. The National Water Commission has reviewed the findings of the principal previous studies, as well as the results of an independent study made for it by Professor Dwight M. Blood of the University of Wyoming.[11] There is no need to repeat all of the findings of these reports here, since the reports are readily available. The principal deficiencies pointed out in these reviews may be briefly stated as follows:

First, a major weakness of the present program stems from deficiencies in the procedures by which it is determined whether or not a proposed waterway project would result in a justified addition to the national transportation system.

Second, a major weakness of the legislative policies governing the present program is that they do not require beneficiaries to share in the cost of constructing, operating, and maintaining Federal waterway projects.

Third, the inland waterway system is inescapably an element of the national transportation system. Yet, the waterways are not planned, evaluated, or regulated as a part of the national transportation system.

Deficiency in evaluation procedures

This deficiency is serious, but calling attention to its existence should not be interpreted as an attempt to cast doubt upon the economic justification of waterway improvement as such. Some of the existing waterways have undoubtedly reduced the real cost of transportation to the Nation by amounts greatly exceeding the costs of providing them. For example, there can be no doubt but that the improvement of the mainstem of the Ohio River has been a sound investment for the Nation. But there is a tendency to conclude that because some waterways have contributed greatly to the prosperity of a region or the Nation, all waterways are, or will be, justified. This is a very old mistake. The success of the Erie Canal, built by the State of New York early in the last century, brought on a great demand for similar waterways in other States. Many of the waterways built by the States and private enterprise turned out to be financial failures. Modern economics has provided much more reliable methods for predicting what effect a contemplated waterway project would have upon the national income. Yet, projects are still undertaken that could not pass the test of an unbiased economic evaluation.

Deficiency in the present cost-sharing policy

The Federal waterway improvement program had its beginnings when the major reason for providing transportation facilities—then limited to waterways and roads—was to induce the settlement and economic development of regions that were essentially uninhabited. This was an overriding national purpose. When a region to be served by a waterway had few people living in it, there was no way for local beneficiaries to assume any part of the cost of improvements and it was in the national interest for the Federal Government to bear these costs. As time passed, other means of transportation were developed, and the regions served by waterways increased in population and affluence. The national purpose of pushing back the frontier and developing underdeveloped regions was achieved. Eventually, railways, highways, and pipelines were developed, and improving technology made the waterways a highly efficient and competitive mode of transport, the costs of which can easily be paid by the direct beneficiaries. However, the policy of Federal assumption of practically all costs which had been established during the formative period of the Nation's economic growth has never been adjusted to take into account the present competitive situation in the Nation's transportation system. New waterway projects serving highly developed regions are still being installed entirely at Federal expense, paid for from the general revenues. Commercial users of inland waterways pay no Federal fuel tax, nor any lockage fees or other form of remuneration for the cost of providing and maintaining the waterways. A change in the policy governing the division of the cost of waterway projects between the public Treasury and those who directly benefit from the low-cost transportation facilities is long everdue. The lack of an equitable cost-sharing policy is a major weakness of the present waterway program.

Failure to treat waterways as elements of a national transportation system

The third major defect stems from the fact that to date the United States has failed to develop a really effective national transportation policy, and hence has not achieved a national transportation system that meets the transportation demands of the United States at least cost to the public as a whole. The present situation is well characterized in a report,[12] issued by the Department of Commerce in 1960, in the following words:

"National transportation is presently out of balance. It is less a national system than a loose grouping of individual industries. We have built a vast network of highways, railways, inland waterways and seaports, airways and airports, and pipelines, with little attention to conflict among these expanding networks. Economic regulation has been administered in rigid compartments although many basic problems are common to many areas of transportation. Total capacity is not closely geared to total need.[11]

Although the remedy lies in the development of an effective national transportation policy, it is impossible to separate water policy and transportation policy insofar as inland waterways are concerned. A water commission is not in a position to deal with this problem in its entirety. Nevertheless it is appropriate for this Commission to call attention to the fact that the national transportation sysem can never attain optimum

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efficiency until its waterways become an integral component of that system, and are utilized in such a way as to minimize the total cost to the Nation of meeting its transportation needs. It is also appropriate for this Commission to point out that when waterway user charges are imposed, as recommended in this report, and institutional arrangements require that the rates charged by other modes of transportation realistically reflect economic costs, freight which can move on the waterways at the least real cost to the Nation will be encouraged to move by water. Finally, it is proper for this Commission to emphasize the importance of initiating a vigorous effort to achieve the goal of an efficient and fully coordinated national transportation system, and as a first step to improve the data base for such an effort.

DISCUSSION

The Commission's review of the three areas of deficiency leads to consideration of remedies which would modernize the Nation's waterway policies by improving evaluation procedures, promoting more equitable cost-sharing arrangements, and lead to better utilization of waterways as elements of a national transportation system.

Improving evaluation procedures

First, there is an urgent need to improve the procedures by which the decision is reached that a particular waterway project should be added to the national transportation system. This subject is treated broadly in Chapter 10 of this report in the section on evaluation. However, the problem of evaluating waterway projects is rendered unique by the fact that the Congress has, for this one type of water project, enacted into law certain procedures for determining the desirability of the construction of a contemplated waterway. This it did by including in Section 7 of the Department of Transportation Act of 1966 a provision requiring a determination of the probable effect of the waterway on the cost of transportation to *shippers*.[13] While there can be no objection to requiring the report on a waterway to show the potential savings to shippers, this is not a measure of the economic benefits of a waterway. From the standpoint of the Nation, a waterway project is justified only if it will reduce the economic—i.e., "real"—cost *to the Nation* of providing the transport services in question, and if the benefits derived exceed these costs. An estimate of the savings to shippers is of little value in determining whether a proposed waterway should be built, for a number of reasons not the least of which is that these so-called savings may be wiped out after the investment is made if the competing mode—such as a railroad—reduces its rates. This is not true of reductions in economic costs. They represent the value of the resources, including labor, required to provide the transportation service, and hence do not change if rates change. It follows that a comparison of economic costs must be made to determine whether the construction of a waterway would reduce the real cost to the Nation of providing needed transportation services.

It is the view of this Commission that it would be desirable for reports on pontential waterway projects to show both the "savings to shippers" as required by Section 7 of P.L. 89-670, and a comparison of the true economic costs of transportation by the waterway and by the least-cost alternative mode—rail, truck, pipeline, or combinations thereof—and the associated benefits. The Congress and the public would then know three things: (1) what shippers might save, either by shifting their shipments to the waterway or as a result of the competing mode reducing its charges; (2) what "real" savings would accrue to the Nation if the waterway were constructed; and (3) whether construction of the waterway is economically sound. Unfortunately, and in the opinion of the Commission unnecessarily, Section 7 has been interpreted as requiring the executive branch to confine its analysis to a determination of the first figure. The law does not prevent the executive branch from applying any test of desirability that it considers essential to determining whether or not a project is in the national interest. The Commission believes the economic test should be included in any future evaluation of a proposed navigation project and that Congress should amend Section 7 to *require* that an economic evaluation be made in addition to the estimation of the savings to shippers.

Improving cost-sharing policy

As indicated previously, there is no longer any rational justification for assumption by the Federal Treasury of the entire cost of constructing, operating, and maintaining navigable waterways. Once this is accepted, the problem becomes one of deciding what share of the cost should be borne by non-Federal interests, and what is the best way to collect that share. Many who have advocated cost-sharing have proposed that the carriers operating on Federal waterways be required to pay tolls, or user charges. Others have suggested a fuel tax.[14] Another means, less frequently proposed, would be to require the carriers to maintain a record of their use of Federal waterways, probably in terms of ton-miles, and periodically to submit a report somewhat like an income tax return, along with a payment of whatever tax might be due for the number of units of use reported.

After considering these approaches, the Commission arrived at the conclusion that for existing waterways recovery of construction costs already incurred is impractical and that the most practicable system for recovering future operation and maintenance costs would be a combination of a fuel tax and lockage charges. The fuel tax should be paid both by commercial and pleasure craft. The lockage charges might be collected as lockage fees at each passage through the lock of a commercial vessel and by sale of annual lock permits to recreational vessels and other small craft. An alternative for commercial vessels would be for the lockmaster to record their passage and bill each company on a monthly or quarterly basis. It appears to be the view of some representatives of inland waterway shipping interests that if user charges are imposed they should be uniform on all segments of interconnected waterways, such as the Mississippi River and its tributaries. The Commission believes this would be feasible.

At the hearings on its draft report, Commission members repeatedly asked witnesses who represented inland waterway interests what distinction they saw between on the one hand, trucks which must pay user charges in the form of license fees, toll charges, and fuel taxes and, on the other hand, barge tows which pay no such user charges. Some witnesses replied that trucks carry a different kind of cargo than barges, typically a higher-value cargo. Most asserted that trucks do not pay 100 percent of the cost of the highways they use; that passenger car owners and general taxpayers pay part of the cost. In view of the Commission's recommendations as to the charges to be collected from users of existing improved waterways—which would apply to recreational as well as commercial craft, and would not in fact reimburse the Federal Government for 100 percent of the costs of improving the waterways—the Commission regards these attempted distinctions as being without any real difference. Furthermore, the user charges that are collected by Federal and State governments in the form of fuel taxes do pay 100 percent of the costs of constructing and operating the Federal interstate highway system, and proposals to divert a portion of the revenues from these charges to mass transit subsidies are being seriously considered.

It is the view of the Commission that for waterways built in the future, the entire cost—construction costs as well as operation and maintenance costs—should be borne by the direct beneficiaries of the project. It would not, however, be desirable to require the repayment of the construction costs of new waterways in the form of user charges as this could result in the user charges for the new waterways being several times larger than those collected on the old waterways. A preferable system would be one under which the user charge collected on a new waterway would be the same as the charge for a comparable old waterway in the same region, and which would require that an appropriate non-Federal entity[16] or a Federal or Federal-State corporation[15] agree, in advance, to repay the construction cost, with interest, in installments over a period of years, in a manner similar to that in which non-Federal entities presently reimburse the Federal Treasury for capacity provided in Federal reservoirs for the storage of water to be used for municipal and industrial supply. The costs of operating and maintaining the new waterways would, under such a scheme, be covered by the fuel taxes and user charges collected from the users of all components of the waterway system.

The cost to the Federal Government of operating and maintaining the shallow-draft inland waterways averaged about $73 million annually for the 5-year period 1968–1972, inclusive.[17] The commercial traffic on these same waterways during this 5-year period amounted to something less than 200 billion ton-miles. Had a user charge system to recover the entire cost of operating and maintaining these waterways been in effect during that period, the user charge per ton-mile should not have amounted to more than about 0.4 mil ($.0004) per ton-mile of commercial traffic, since recreational traffic would also bear part of the cost.[18] Although numerous statements were made at the Commission's regional conferences to the effect that user charges would seriously reduce or even eliminate the use of inland waterways, no solid evidence was offered in support of such statements. On the contrary, testimony as to the wide disparity in favor of water rates over rail and truck rates suggested that for the principal waterways traffic would not be diverted by user charges such as those recommended by the Commission.

In summary, the Commission believes that:

(1) For existing, or "old," waterways, the aim should be to recover, through a combination of fuel taxes and lockage charges, a progessively increasing annual total that would, by the end of 10 years, and indefinitely thereafter, be sufficient to cover the entire Federal annual expenditure for operation and maintenance. No attempt should be made to recover any part of the sunk construction cost.

(2) For "new" waterways, it would be desirable for the Federal Government to require that in advance of construction an appropriate entity other than the Federal Treasury agree to repay the construction cost, with interest, over a specified period of years. Costs of operating and maintaining the new waterways should be collected from the users, the same as for existing waterways.

There are a number of reasons for requiring future costs of waterways to be paid by the users rather than the Federal taxpayers. One of these reasons has already been mentioned: If non-Federal interests agree to repay the first cost of a waterway, the Congress and the public can be sure that those urging the project are sincere in believing that it is justified. Thus, cost-sharing requirements would be effective in eliminat-

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ing political pressures from a group seeking a project for no other reason than that they expect it to be paid for by the Federal Treasury.

Another reason for requiring cost-sharing is that it is essential to prevent the inequity that results when those who benefit substantially from the construction of a public work pay no more of its cost than those who receive no benefits whatsoever, and who may even be adversely affected because they reside in a region that will be placed at a disadvantage by a project that stimulates the economy of a competing region.

User charges on waterways can also help eliminate inequities between different modes of transportation that result from uneven Federal policies. The railroads believe it is inequitable to require them to compete with carriers who pay nothing for the use of waterways provided at public expense. The problems involved in imposition of user charges to correct this inequity are complicated by the deficiencies in present laws governing the regulation of transportation rates. The principal objective of regulation should be to achieve a national transportation system that meets the Nation's transportation needs at least cost. To assure that this goal be achieved, it is essential that waterways be used to transport freight that can move by water at a lesser real cost to the Nation than by any other mode of transportation. But present regulation by the Interstate Commerce Commission does not always prevent competing modes from reducing their rates below cost for the purpose of diverting from the waterways traffic that could move at a lesser real cost by that mode. For this reason, the Commission believes that when the Congress imposes user charges on waterways it must also make possible such regulation of rates as may be necessary to insure that each mode of transport is used to the best advantage of the Nation as a whole. Regulation should require that all rates be compensatory, and filed with at least 30 days notice, to preserve rate stability, but otherwise should promote, rather than stifle, competition among various modes.

Better utilization of waterways as elements of a national transportation system

The foregoing leads directly into the third deficiency mentioned which presents a problem that lies somewhat outside the proper sphere of interest of the National Water Commission, since it involves both transportation and water policies. Nevertheless, the Commission believes it has an obligation to recommend that provisions be made at an early date for a vigorous attempt to determine the changes in national transportation policy that will insure that waterways shall be used most effectively and equitably as an important element of the national transportation system. The complex problems involved cannot be solved by simply requiring carriers to pay for the use of the public waterways.

Pending the development of a better solution to this problem than any that has been previously proposed, two courses of action should be pursued: (1) The Congress should seek to assure that the Nation's great investments in waterways shall be used—to the extent that their use is economically justified—by requiring that the rates charged by other modes of public transportation be so regulated that the imposition of user charges would not have the effect of shifting to these other modes any traffic that can move at lesser real cost by water; and (2) the executive branch should take steps to make available a more adequate data base to those who must ultimately find an answer to the difficult and complex problem of bringing into existence the best possible national transportation system.

The Commission recognizes the concerns expressed by knowledgeable witnesses at the hearings on its review report to the effect that inland water carriers could not expect fair treatment if they were placed under the regulatory jurisdiction of the same Federal agency that regulates rail and truck carriers. Simply stated, the water carriers fear that the agency would be pro-railroad or pro-truck. If such fears proved well-founded, the Commission's recommendation that waterways be treated as part of a national transportation system would be frustrated. However, the Commission believes that the Congress by setting up and overseeing the right kind of transportation regulatory agency could provide reasonable assurances that such agency would not favor one form of transportation over another, but allow each to carry that cargo which from the standpoint of the national interest it carries best. If Congress does not create such a body, it cannot establish and enforce a rational national transportation policy.

RECOMMENDATIONS

5–1. Any report proposing a Federal inland waterway project should provide an estimate of the true economic cost and benefit to the Nation of providing the contemplated transportation service, and a comparison thereof with the true economic cost of providing this service by the least-cost alternative means. This should be in addition to the estimate presently required by Section 7 of the Department of Transportation Act of 1966.

5–2. Legislation should be enacted to require non-Federal interests to bear an appropriate share of the cost of Federal inland waterway projects. Such legislation should require: (a) that carriers and pleasure craft using inland waterways be required to pay user charges such that the total collections on all Federal waterways would be sufficient to cover Federal expenditures for operation and maintenance of the entire system; (b) that within the bounds of administrative practicability the user charges should consist of a uniform tax on all fuels used by vessels operating on the inland waterways, plus lockage charges at rates sufficient to repay the cost of operating and maintaining the locks within integral segments of the total waterway system; (c) that charges be imposed gradually over a 10-year period and increased progressively so that by the end of that period they will be sufficient to recover annually the entire cost of operating and maintaining the Federal inland waterway system; and (d) that as a condition for Federal construction of future inland waterway projects responsible federally chartered or non-Federal entities be required to enter into agreements to repay the construction costs, including interest, over a specified period of years unless the Congress determines that a particular waterway will result in national defense benefits sufficient to justify assumption of a part of the cost by the Federal Government.

5–3. Any legislation requiring the payment of waterway user charges should also authorize and direct the Federal transportation regulatory agencies to regulate rates for all competing modes of transportation in such a way as to encourage the use of the waterways for any traffic that could move by that mode at the least economic cost to the Nation.

5–4. The Department of Transportation should broaden and intensify its efforts to improve national transportation policy. It should develop a plan for such administrative and legislative actions as may be required to bring into being an integrated national transportation system in which all modes of transportation, including inland waterways, are utilized in such a way as to reduce to a practical minimum the cost to the Nation of meeting the demands for transportation. To prepare the way for the development of such an integrated and efficient national transportation system, the Department of Transportation should develop and submit to the President and the Congress recommendations designed to provide the data base that will be needed to achieve the objective of this recommendation.

FOOTNOTES

[1] At the time the National Water Commission was created, the Congress was awaiting completion of the studies and report of the U.S. Commission on Marine Science, Engineering, and Resources, created under Public Law 89–454 of the 89th Congress to study the problems and develop new policies for the ocean resources adjacent to the United States. This made it evident to the National Water Commission that the Congress did not intend it to duplicate the work of the Marine Commission and make recommendations as to policies governing ocean shipping, foreign commerce, and maritime problems. Hence, the recommendations in this section are not intended to apply to deep-draft vessels operating on the Great Lakes, on the lower reaches of major rivers used by such vessels, on the entrance channels to deep-draft harbors, or on the oceans. The Commission recognizes that, with the development of new type barges and cargo containers, an increasing amount of cargo will move from inland shallow-draft waters into foreign commerce without being unloaded at coastal harbors and reloaded into oceangoing vessels. In time this change of technology conceivably may require that new national policies be adopted for both inland and ocean shipping. But for the foreseeable future, the Commission believes that the traditional distinction between inland waterway and ocean shipping can be observed, and that as a practical matter the self-supporting policies which it recommends for inland waterway transportation can be implemented even though some cargo which originates at inland ports may move directly into foreign commerce. Should a fuel tax be imposed as suggested by the Commission, it can be allocated between taxable and nontaxable uses and refunded to the taxpayer in the same manner as the tax on gasoline purchased for on-farm-use.

[2] Blood, Dwight M. (1972). Inland Waterway Transport Policy in the U.S., prepared for the National Water Commission. National Technical Information Service, Springfield, Va., Accession No. PB 208 668. pp. II–1 to II–3.

[3] U.S. Army Corps of Engineers (1972). Waterborne Commerce of the United States, Calendar Year 1970, Part 5, National Summaries. U.S. Army Engineer District, New Orleans, La. And U.S. Army Corps of Engineers (1951). Annual Report of the Chief of Engineers, Volume I. U.S. Government Printing Office, Washington, D.C.

[4] Not converted to present dollars. Information furnished by Corps of Engineers.

[5] Blood, Dwight M. (1972). Inland Waterway Transport Policy in the U.S., prepared for the National Water Commission. National Technical Information Service, Springfield, Va., Accession No. PB 208 668. pp. II–10, II–13.

[6] Except on the Gulf Intracoastal Waterway where they are pulled.

[7] American *Waterways Operators* (1973). Statement of Braxton Carr, President, at Washington Conference, National Water Commission, February 9, 1973.

[8] U.S. Congress, Senate Committee on Public Works (1955). Hearings on Flood Control, Rivers and Harbors, and Miscellaneous Projects, S. 414, S. 524, and S. 1069, 84th Congress, 1st Session. Statement of Lt. Gen. Samuel D. Sturgis, Chief of Engineers, April 18, 1955, p. 31.

[9] The State of New York is seeking Federal participation in the operation, maintenance, rehabilitation, and improvement of the State Barge Canal. It is also considering legislation to impose user changes on the carriers using this waterway.

[10] Information on potential waterways furnished by U.S. Army Corps of Engineers.

[11] Blood, Dwight M (1972). Inland Waterway Transport Policy in the U.S., prepared for the National Water Commission. National Technical Information Service, Springfield, Va., Accession No. PB 208 668.

[12] U.S. Department of Commerce (March 1960). Federal Transportation Policy and Programs. U.S. Government Printing Office, Washington, D.C.

[13] P.L. 89–670, October 15, 1966, Sec. 7, 80 Stat. 931, 942, 49 USCA 1656.

[14] Presidents Kennedy, Johnson, and Nixon have supported fuel tax legislation, but the Congress has not seen fit to enact such legislation.

[15] Perhaps a State, or an interstate compact commission, where more than one State should contribute.

[16] Patterned after the St. Lawrence Seaway Development Corporation, perhaps, or similar to the Delaware River Basin Commission or a federally chartered regional corporation as discussed in Chapter 11 of this report.

[17] Data provided by the U.S. Army Corps of Engineers. The amount shown does not include the cost of operating and maintaining those lower reaches of major rivers that are used by deep-draft vessels. The annual operation and maintenance costs for these deep-draft sections averaged about $13.5 million for the 5-year period 1968–1972.

[18] Information furnished the Commission by Professor Marvin Barloon of Case Western Reserve University suggests that from 15 to 20 percent of the marine fuel consumption in the Mississippi River and tributaries and Gulf coastal waterways might be for pleasure boat operation. (Letter dated February 21, 1973, to Commissioner James R. Ellis.)

THE "1909 ACT"

SEC. 6. That section four of the river and harbor Act approved July fifth, eighteen hundred and eighty-four, be, and is hereby, amended and reenacted so as to read as follows:

"SEC. 4. That no tolls or operating charges whatever shall be levied upon or collected from any vessel, dredge, or other water craft for passing through any lock, canal, canalized river, or other work for the use and benefit of navigation, now belonging to the United States or that may be hereafter acquired or constructed; and for the purpose of preserving and continuing the use and navigation of said canals and other public works without interruption, the Secretary of War, upon the recommendation of the Chief of Engineers, United States Army, is hereby authorized to draw his warrant or requisition, from time to time, upon the Secretary of the Treasury to pay the actual expenses of operating, maintaining, and keeping said works in repair, which warrants or requisitions shall be paid by the Secretary of the Treasury out of any money in the Treasury not otherwise appropriated: *Provided*, That whenever, in the judgment of the Secretary of War, the condition of any of the aforesaid works is such that its entire reconstruction is absolutely essential to its efficient and economical maintenance and operation as herein provided for, the reconstruction thereof may include such modifications in plan and location as may be necessary to provide adequate facilities for existing navigation: *Provided further*, That the modifications are necessary to make the reconstructed work conform to similar works previously authorized by Congress and forming a part of the same improvement, and that such modifications shall be considered and approved by the Board of Engineers for Rivers and Harbors and be recommended by the Chief of Engineers before the work of reconstruction is commenced: *Provided further, also*, That an itemized statement of said expenses shall accompany the annual report of the Chief of Engineers: *And provided further*, That nothing herein contained shall be held to apply to the Panama Canal."

At this point Mr. GOLDWATER assumed the chair.

Mr. STENNIS. Mr. President, as I understand there is no pending amendment or motion before the Senate now on this lock and dam No. 26. There is language on that subject on page 27 of the bill, which is the committee amendment, and these remarks here do make a history and make a record of the thought of the different Members.

Now, Mr. President, I shall be brief, speaking for the chairman of the Subcommittee on Appropriations on Public Works.

Historically, Mr. President, the renewal of a lock and dam, as well as the upkeep, the renewal or replacement modernization, you might say, have been considered since 1909 as a natural consequence of the original authorization, and although appropriation bills are made from year to year on these different items and are made on a line item basis and specifically identified, for renewals of the locks and dams, it has never been considered necessary to express additional authorization for that particular item. This has been the long-standing precedent and procedure.

These matters, though, do annually come before Congress for the appropriation and, in fact, here just a few months ago, less than a year ago, we appropriated $22 million for this specific item, the construction of the new locks and dam No. 26 on the Mississippi River in the area of St. Louis, and that money was being spent, of course, until the court ruled—here in Washington, D.C., as I understand it, ruled—that there was no authority for the replacement and modification of locks and dam No. 26 and the expenditure of the money.

Now, to bring this matter into focus and also as an expression of the subcommittee and the committee position with reference thereto, we put in this provision here on page 27 of the bill relating to locks and dam No. 26. The key language of this clause is:

. . . the consent and approval of Congress for the construction of said Locks and Dam 26 by the Secretary of the Army having been granted thereby is hereby reaffirmed:

But we put in the proviso in there in response to some of the concerns, clearly reading as follows:

Provided, That nothing contained herein shall be construed as authorizing a twelve-foot channel above Locks and Dam 26.

That again is carrying out the pattern of operation here that has prevailed on these matters since the act was passed in 1909, and with the numerous replacements that have been made since then and are being made today.

So I submit, Mr. President, just to say that we are proceeding here and acting without authority of law and without congressional consent, charges of that kind fall flat here when we look at the actual record as to what has been done and what the pattern of operations still is.

As late as the fiscal 1975 appropriation bill, it carries with it $22 million for this very identical item, and carries it as a separate, identifiable item, that is, it is spelled out just like all other public works projects in the accompanying report.

This is a matter that may well be discussed. I think it is farfetched that the court could conclude on the facts before it strong enough to prohibit by injunction the proceeding with this important installation, which is described by the Senator from Missouri as being the most important lock and dam on the entire Mississippi River and tributary system so far as commerce volume is concerned.

So, perhaps, this history here will be worth something to that court if it does reconsider—this was a temporary injunction, as I recall—its ruling.

Certainly it is clear and without exception as to what Congress has done, how it has interpreted its authority, and how it has decided, Mr. President. Congress is capable of making a decision and has a place in these things as much as the court, and I speak with deference to the judicial branch of our Government, but there is this unbroken line of authority over and over again not only as to this project but as to many, many, many more, and in an area that carries a large part of the volume of the water transportation of this country.

So we will have this matter in conference on the bill. We have this language in here reiterating that the money previously appropriated and spent was legally appropriated and spent, and so forth, and that will be in conference. If the members of the conference from the other body wish to object to it, they will have a chance.

Also, in conversation with the distinguished Representative from Tennessee, Mr. EVINS, who is chairman of the subcommittee on the House side, we have agreed that we would bring into the discussion at least, whether actually in the conference, the Representative from Alabama who is chairman of the Public Works Committee in the House, get his views and his thoughts and feelings on this matter.

So this is purely a congressional matter and has been decided over the years without any voice of disapproval, so far as I have known or heard of. That is the way we seem to be agreeing on it today, largely, not altogether unanimously, but by a large part of the manifestation of the interest.

Those are the facts and those are the rulings, so to speak, of the Congress.

I see the Senator from North Dakota here in the Chamber, and he is certainly an authority on this matter, has great interest in it, lives within the tributaries to be served by this structure, and I am glad to yield the floor to him.

Mr. YOUNG. I would like to say, if it was not for navigation and improvements in navigation, especially those sponsored by the late Senator Ellender year after year in the public works appropriation bill, we would be in a chaotic situation today with respect to transportation.

I have been on the Appropriations Committee for more than 25 years, and we have had money for improvement of

locks and dams almost every year, sometimes two or three or more.

We have made these improvements and replacements before without requiring a special authorization. The Senator from Mississippi has stated the Committee's case with his usual thoroughness, and I support what he has said.

Mr. SYMINGTON. Will the Senator yield?

Mr. STENNIS. Yes, I will yield the floor if the Senator wishes.

Mr. SYMINGTON. Mr. President, I wish to respectfully commend the distinguished chairman of the committee and assure him it would have been more proper if he had spoken first on a matter he understands far better than I do.

I was in committee late this morning and I heard this matter was going to come before the floor, I did not know at that time what the situation was. I respectfully commend the Senator for his outstanding statement on this matter.

I would hope Judge Richey, or whoever the judge is that becomes involved in this authorization procedure, will remember when he considers it that the distinguished Senator from Mississippi is not only a great Senator, but also is considered a great judge in matters of this character.

I thank the Senator.

Mr. STENNIS. Well, I thank the Senator for his words. The Senator did not have to explain, though, his position in proceeding. I thought I nodded to the Senator by telegraphic way here for him to go ahead of me.

Mr. President, unless there are other questions, I am glad to yield the floor.

Mr. STAFFORD. Mr. President, I would like to ask a question of the distinguished Senator from Washington, if I may, in connection with the pending supplemental appropriation.

My question to the distinguished Senator has to do with the winterization program, so-called, and the language in the committee report on page 51, which says:

The intent of the Committee is that this appropriation be used for winterization and financial relief of the poor and near poor, not for expansion of administrative machinery.

Then the act itself provides in section 5(a) of Public Law 93–644:

Providing legal or technical assistance or otherwise representing the interests of the poor in efforts relating to the energy crisis,

and so on.

My question is this in connection with the winterization program for the poor in the second supplemental appropriation: Is it correct to assume that the $19 million recommended by the committee can be used for all or any of the functions set forth in the Emergency Energy Conservation Services section of the Community Services Act?

Mr. MAGNUSON. The Senator from Vermont is correct.

Mr. STAFFORD. I have one more question for the distinguished Senator from Washington. Does the Community Services Administration have the authority to continue to be flexible in the use of funds for Emergency Energy Conservation Services to support all activities specified in the enabling legislation?

Mr. MAGNUSON. The Senator is also correct.

Mr. STAFFORD. I thank the distinguished Senator very much for his responses.

I yield the floor.

Mr. BROOKE. Mr. President, a few moments ago on this floor there took place a colloquy on the uses of $19 million provided by our Committee for Emergency Energy Conservation Services.

The purport of the discussion apparently was to establish the "flexibility" of the funds in relation to the purposes in the Community Services Administration Act. I regret that I was not present on the floor at the time of this colloquy, for if I had been I would promptly have cited the language of our committee report which earmarks funds for a specific purpose.

Let me quote from the committee report:

The Committee has included $19 million for Emergency Energy Conservation Services, an increase of $10 million over the House allowance. The budget request did not contain any funds to begin implementation of this program. The Senate had originally included $10 million for the energy program in the 1975 Emergency Employment Appropriations Act supplemental, which was dropped in conference with the understanding that the funding would be considered in this bill.

The Emergency Energy Conservation Services program is designed to aid low-income families reduce their energy consumption and lessen the impact of the ever increasing cost of energy. The Committee believes this program will provide an important step forward in attempts to conserve energy resources. In addition to winterization, the funds provided in this bill will be used for short-term assistance, including loans and grants to eligible individuals, to help them avoid utility cut-offs in instances where they temporarily cannot pay utility bills.

Thus, it should be clear that the $10 million added on to the House allowance of $9 million was to establish the program to help the poor pay their utility bills and avoid the shutoff of service.

This is the intent of our committee.

Mr. NELSON. Mr. President, no one quarrels with the assertion that Lock and Dam 26 is an important navigational facility. If it were not for Lock and Dam 26, nothing could get up the Mississippi River to my State or to Minnesota.

However, the issue is, has this proposal been specifically authorized by the Congress?

Of course, it is a debatable point or we would not be here debating it, but Judge Richey has held that it is not authorized.

In fact, I am advised secondhand by authority that I consider reputable that Maj. Gen. J. W. Morris, Chief of the Civil Works, Department of the Army Corps of Engineers, agrees with the interpretation of Judge Richey.

I gathered this secondhand from a source I consider reputable. It may be checked to determine whether or not that is an accurate report. If it is not correct, I will correct the RECORD.

Let us read the plain language of the statute, it is not very difficult and it is not equivocal. Headnote 1 in the decision by the court, which I have asked to have printed in full in the RECORD, reads:

Corps of Engineers may replace a lock and dam or similar structure which has become ineffective or damaged without congressional approval but may not—

I emphasize "may not"—

rebuild a structure merely to meet expected future increases in traffic without such approval.

No language could be clearer and simpler and subject to less opportunity for misinterpretation than that.

In headnote 2, what is the standard?

Standard for determining if proposed project is a reconstruction of a lock and dam or similar structure, in which case no specific congressional approval is necessary, or whether the proposed activity is a rebuilding, for which congressional approval would be needed, is whether the proposed structure represents a material change in the character and capacity of the existing structure.

Nobody can argue that going from 46.2 million ton capacity to 190 million ton capacity is not a material change. It is more than two times the size of the present structure. It is not the same structure at all and clearly is not authorized by the law itself. There can hardly be any argument about that.

Mr. President, I ask unanimous consent that all of section C of the opinion which is on page 619 and concludes on page 620 be printed in full in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. NELSON. In the opinion, section C is:

C. THE PROPOSED LOCKS AND DAM 26 HAS NOT BEEN AUTHORIZED BY CONGRESS EVEN THOUGH CONGRESS HAS APPROPRIATED FUNDS FOR THE PROJECT

As this Court has found that the Defendants cannot rely on 33 U.S.C. § 5, the issue remains whether Congress has approved the proposed rebuilding of Locks and Dam 26.

The Defendants argue that because Congress has appropriated funds for the project, it has therefore given its consent. The Defendants, however, in the hearings before Congress and in all of their public documents, including the EIS, have continually asserted that this is a Section 5 project which does not need specific congressional authorization. What in essence the Defendants now argue is that Congress ignored these assertions and authorized the project under Section 401. Such a contention is not only unpalatable, but is also erroneous as a matter of law. While some legislators did question under which statute the Defendants were proceeding, they had a right to rely on the Defendants representations that this was a Section 5 project.

Of course there is a debate. We hear it on the floor of the Senate. But I think the law is clearly on the side of the judge, given the size and dimension of the proposed change here; given the fact that if you go to a 190-million-ton lock it will make obsolete every single lock all the way up the rest of the Mississippi because none of those locks will have that capacity. It is the responsibility of the Public Works Committee to conduct the hearing, bring the matter before the Congress, and get a specific authorization for whatever proposal it is that is recommended in that authorization. Certainly, we should not be allowing the Corps of Engineers to dramatically expand projects any time they want to.

There is a corps project in my State that started out in 1962 as a proposal for a flood control project, for an 800-acre lake and a dam 71 feet high. Over the years it has grown to an 1,800-acre lake and a dam 103 feet high.

At what stage do we require the Corps of Engineers to be responsible to specific authorizations of the Congress? If they can get away with this, we might as well delegate the authority for them to build any project they please and we will pay for it after the fact.

This is the responsibility of the Congress and this project goes far beyond that authorization of almost 70 years ago.

EXHIBIT 1

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As this Court has found that the Defendants cannot rely on 33 U.S.C. § 5, the issue remains whether Congress has approved the proposed rebuilding of Locks and Dam 26.

The Defendants argue that because Congress has appropriated funds for the project, it has therefore given its consent. The Defendants, however, in the hearings before Congress and in all of their public documents, including the EIS, have continually asserted that this is a Section 5 project which does not need specific congressional authorization.[28] What in essence the Defendants now argue is that Congress ignored these assertions and authorized the project under Section 401. Such a contention is not only unpalatable, but is also erroneous as a matter of law. While some legislators did question under which statute the Defendants were proceeding,[29] they had a right to rely on the Defendants representations that this was a Section 5 project. For, legislators voting for appropriations have the right to assume that the agency had been following and will follow the law. *See,* E. D. F. v. Froehlke, 473 F.2d 346, 355 (8th Cir. 1972).

[4] This Court cannot agree that the mere appropriation of funds meets the statutory requirement for Congressional consent under Section 401.[30] It is a general principle Congress cannot and does not legislate through the appropriation process. This principle has been codified in Rule XXI of the Manual of the House of Representatives, which provides in pertinent part:

2. No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless on continuation of appropriations for such public works or projects as are already in progress.

Thus, an authorization bill would be necessary at the least for Congressional consent under Section 401. And, Locks and Dam 26 would not come under the exception since it is not a project already in progress. On this point, House Rule § 836 must also be considered:

Previous enactment of items of appropriation unauthorized by law does not justify similar appropriations in subsequent bills unless if through appropriations previously made a function of the government has been established which would bring it into the category of continuation of works in progress.

Furthermore, the fact that no point of order was raised to the recent appropriation is not indicative of authorization, nor on the basis of § 836 can the previous appropriations provide such an indication. Therefore, this Court concludes that the proposed Locks and Dam 26 does not have the "consent" of Congress under 33 U.S.C. § 401.[31]

Mr. STENNIS. Mr. President, I shall not take any further time.

I ask unanimous consent to have printed in the RECORD at this point a letter from Maj. Gen. J. W. Morris, Director of Civil Works, Department of the Army, on this point, in which he states that he is confident that the Congress has provided in special authorizing legislation or in associated appropriation legislation sufficient authority for the Secretary of the Army.

I also ask unanimous consent to include in the RECORD at this point a letter on the same subject from the Honorable Howard H. Callaway, Secretary of the Army.

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

DEPARTMENT OF THE ARMY,
Washington, D.C., December 11, 1974.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Appropriations,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I have inclosed for your information a brief fact sheet on recent court actions which have precluded initiation of construction of Locks and Dam 26 on the Mississippi River near Alton, Illinois. I am confident that the Congress of the United States has provided in special authorizing legislation, or in associated appropriations legislation, sufficient authority for the Secretary of the Army, through the Chief of Engineers, to replace this project and other locks and dams in similar condition. Even so, a delay of several years most probably will occur until the courts have finally decided that such is the case for Locks and Dam 26. The effects of this extended delay on the efficiencies of our water transportation system, and to some extent on the economy of the Nation, can only be adverse and, therefore, I felt they warranted being brought to your attention.

Sincerely,

J. W. MORRIS,
Major General, USA,
Director of Civil Works.

FACT SHEET

Subject: Locks and Dam 26.

1. This Information Brief provides background information on recent court actions related to Lock and Dam 26 and also outlines the impact of this court action on the related navigation transportation system.

2. Section V, 35 Stat. 818, 3 March 1909, commonly called the 1909 Act, gave the Secretary of Army authority to replace navigation locks and dams as may be necessary to provide adequate facilities providing such reconstruction conforms to similar works previously authorized by the Congress. Since the enactment of this legislation, the Secretary of Army has utilized this authority to rehabilitate or replace 16 locks and dams and an additional 8 are being replaced presently. These 24 projects have been done with the knowledge of the Congress and with specific appropriations totaling $1.7 billion. In addition, there are 4 locks and dams under design and 11 others being studied.

3. Among the 4 locks and dams under design is Lock and Dam 26, located just north of St. Louis, Illinois, and presently consists of a 600'x110' lock and a 350'x110' lock. This lock and dam was constructed in 1938. It is still operating but requires extensive maintenance and is the most significant bottleneck for transportation in the Mississippi system. During summer operation it is not unusual for tows to wait over 3 hours for their turn into and through the locks. The present traffic of approximately 50 million tons per year will increase to 70 million tons by 1980 and 100 million tons 20 years thereafter. For these reasons the Secretary of Army approved on 14 June 1969, the replacement of Lock and Dam 26 under the 1909 Act and within two days had advised the Public Works and Appropriations Committees Chairman in both the House and Senate, of his action. Subsequently funds were appropriated in FY 1970 through 1973 for advance engineering and design. The funds initiated for construction were included in the Appropriations Bill for FY 1974 and FY 1975 Appropriations Bill included $22 million.

4. On 6 August 1974, the Atchison, Topeka and Santa Fe Railway in conjunction with the Izaak Walton League, asked Judge Charles R. Richey, District Court for the District of Columbia, to enjoin the Corps of Engineers from awarding the construction contract. On 5 September, Judge Richey granted a preliminary injunction based upon his finding that:

a. The proposed Lock and Dam 26 may not be built under USC 5 without further authorization from the Congress.

b. The Corps of Engineers' environmental impact statement had not complied with NEPA, primarily because we had not considered the impact on the entire navigation system in building Lock and Dam 26.

5. Based upon the repeated advice by letter and during the annual Appropriations Hearings of the Congress, and the periodic appropriations which have been signed into law, there seems to be little question that the Secretary of Army has acted within his authority and ultimately should be successful in having the injunction removed. At the same time this is going to be a timely process since trial to relieve the temporary injunction cannot be held until next spring at the earliest. In the meantime work on Lock and Dam 26 has been deferred. The effects of the delay will aggravate the inefficiency of the present navigation system at the Lock and Dam 26 site, will increase the cost of the project in the long term, and will incur continuing and rising maintenance investments for a structure that is overworked and now 40 years old.

6. Besides Lock and Dam 26, there are necessary improvements on the Gulf Intracoastal Canal Association (Vermillion Lock

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[28] *See,* Statements of Colonel Hall before the Senate Subcommittee of the Committee on Appropriations, October 13, 1969, p. 6803; EIS at 2; GDM at 1–1.

[29] *See* Statement of Senator Allen J. Ellender, Chairman, Subcommittee of the Committee on Appropriations, October 13, 1969, at 6802–3.

[30] The Defendants' reliance on Orlando v. Laird, 443 F.2d 1039 (2d Cir. 1971) is misplaced. Although the Second Circuit did reject the appellant's contention that "congressional authorization (for the Viet Nam war) cannot, as a matter of law, be inferred from military appropriations," it held that the menner by which Congress declared was a political question. Id. at 1043. Moreover, this Court can find no support for the Defendants' position that appropriations are sufficient authorization in this matter in the *Laird* opinion.

[31] This Court is also of the opinion that 42 U.S.C. § 1962d–5 may not have been complied with in this matter. That Section requires that *any* water resource development project over ten (10) million dollars (first cost) be approved by resolutions of the Committees of the House and Senate on Public Works. The parties have not shown that such resolutions were or were not passed. However, since this Court has found that Section 401 has not been complied with, a determination of this issue is not necessary for a decision on the motion for a preliminary injunction.

and Dam) and on the Ohio River system (Gallipolis Lock and Dam) which are in a status of uncertainty and also are being delayed pending resolution of the Lock and Dam 26 issue.

DEPARTMENT OF THE ARMY,
Washington, D.C., January 23, 1975.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter concerns recent developments related to the replacement of Locks and Dam 26, Mississippi River Navigation Project. Background information on this matter was submitted earlier in a fact sheet transmitted on 11 December 1974 by letter from Major General J. W. Morris, Director of Civil Works.

In a hearing before Judge Richey on 19 December, the Justice Department requested that the scheduled 3 March 1975 trial of the case be postponed until after the Corps of Engineers had completed its revision of the Environmental Impact Statement (EIS) for the project. The Judge inquired several times as to whether the Corps of Engineers intended to seek further legislative approval from the Congress before proceeding with the project. The Department of Justice representative responded that the Corps of Engineers believed that it had acted properly under the authority granted, and did not believe further legislative authority was needed from the Congress. Thereafter, Judge Richey clearly indicated that in his view the "law of the case" was that Section 6 of the 1909 Act could not serve as the authority for the construction of the new Locks and Dam 26. This is consistent with Judge Richey's earlier statement in his opinion of 6 September 1974 that the "project will be delayed only until the defendants obtain the consent of the Congress and cure the defects in the EIS."

I have always intended to act clearly within the authority granted by the Congress and believe I have done so in this case. In view of the opinion of Judge Richey and the prospect of a lengthy trial, however, I now believe that my best course of action will be to seek from the Congress a reaffirmation or clarification of the authority of the Secretary of the Army prior to proceeding with the construction of Locks and Dam 26. We will advise Judge Richey of this procedure and request of him a deferral of the litigation pending Congressional action.

The Chief of Engineers is presently updating his economic analysis and report on the Locks and Dam 26 so as to comply with the instructions from Judge Richy relative to the EIS. This effort is expected to be completed in approximately nine months. At that time I will submit a revised report to the Public Works Committees of the Congress for their consideration and appropriate action unless the matter of authority has been resolved at an earlier date.

Sincerely,

HOWARD H. CALLAWAY,
Secretary of the Army.

Mr. STAFFORD. Mr. President, I wish to express my strong support for the provision in H.R. 5899 that appropriates $350,000 to the U.S. Fish and Wildlife Service to initiate an environmental study of Lake Champlain.

This examination of varying lake levels would be undertaken in coordination with the Canadian Government, through the International Joint Commission (IJC).

Appropriation of money to initiate the study now is necessary to assure the continued cooperation of the Canadian Government in this environmental review.

Let me outline the history. The question developed from a 1937 decision by the IJC, the body used by our two governments to resolve frontier questions. The IJC approved projects in Canada that would regulate the flow of the Richelieu River, which drains Lake Champlain into the St. Lawrence River. These projects were designed to lower Lake Champlain, and thus to lessen seasonal flooding along the Richelieu. A dam was completed in 1939. But other necessary work to regulate and lower Champlain's waters was never completed.

Beset with flooding in the Richelieu Valley, the Canadians recently revived this dormant concept. In 1973, the IJC asked its Engineering Board to study the desirability of regulating the river's flow.

Following careful review, the Engineering Board last fall said a full environmental study was necessary to precede any true evaluation of work on the Richelieu. Following public hearings and discussion, the six-member IJC supported the need for the study.

In a letter, the Commission's Secretary told Secretary of State Kissinger:

The Commission has concluded that reliable information on the environmental impact and economic net benefits is lacking . . . The Commission wishes to point out that a commitment by the two governments to ensure prompt and adequate funding of the essential studies is an integral part of the action needed.

I would note that the benefits of regulation lie in Canada; the perils of regulation lie in the United States. I want to commend the Canadian representatives and Government for their constructive approach throughout these discussions. This cooperative spirit is good news to the people of the Champlain Valley.

Our Canadian neighbors could have been recalcitrant. They could have gone ahead with construction. But they did not. They recognized that a problem existed, and they have sought to work with us to resolve both their flooding problem and our environmental concerns.

We can do no less in return. We must act with dispatch to complete the environmental study as quickly as possible. This $350,000 appropriation would provide that impetus. We must not allow the call for study to appear to be a ruse for delay.

The executive branch has moved to meet this concern. At the suggestion of the State Department, the U.S. Fish and Wildlife Service has assumed leadership on the study. And the Department of the Interior reprogramed $25,000 to Fish and Wildlife to initiate planning on the study. But a serious need exists now for $350,000 to pay for a careful topographical mapping of the perimeter of Lake Champlain, in 1-foot intervals. Such a precise topographic study will provide scientists with the information they need to identify the effect of any reduction in lake levels on the lake's diversified and productive wetlands. These 30,000 acres of existing wetlands are critical to the lake's productivity and environment. If a significant portion of them were drained, what impact would occur?

Mapping is a necessary preface to the answer. It must precede substantive studies on vegetative cover and fauna. If the mapping money is delayed until the 1976 fiscal year budget, mapping could not begin until the spring of 1976 or later. This might delay the whole study cycle by a full year or more, pushing the completion of the full study into 1978, at the earliest. If we can obtain this mapping money now, I am hopeful that we may be ready to move into the full scientific studies by next spring.

Our Canadian neighbors have acted with fairness. We can do no less.

Mr. President, I want to urge adoption of this money, and to say a word of thanks to the distinguished chairman of the Appropriations Subcommittee on Interior (Mr. ROBERT C. BYRD) and the distinguished ranking member (Mr. STEVENS) for their attention to this matter. And I want to thank my distinguished colleagues (Mr. LEAHY) and the two distinguished Senators from New York (Mr. JAVITS and Mr. BUCKLEY) for their interest and leadership in bringing attention to this study.

Also, I would add a word of commendation to Members of the House, Mr. JEFFORDS, Mr. MCEWEN and Mr. HANLEY, for their interest and assistance.

Mr. HUMPHREY. Mr. President, I wish to rise in support of the agricultural funding as provided in the Second Supplemental Appropriations bill for 1975.

And may I say that once again, the Subcommittee on Agricultural and Related Appropriations, under the distinguished leadership of Senator MCGEE, has performed an outstanding job in responding to the requirements before us.

These funding requests are solidly based and should be approved without delay.

The child nutrition funding is needed to cover unanticipated expansion and increased reimbursement rates for these programs as provided by law which include feeding for needy children and summer feeding programs.

It is my understanding that the distinguished chairman of the House Appropriations Committee, the Honorable GEORGE MAHON, is prepared to accept this amendment regarding funding for the summer feeding program.

The earlier refusal of the other body to accept section 32 funding of the 1975 summer feeding program, as provided in S. 1310, raises basic issues regarding the use of section 32 authority which concerns me greatly. The way that this section is now being interpreted by the Budget and Appropriations Committees is inconsistent with the original intent of the 1935 law, in my judgment.

The use of section 32 funding to help finance domestic feeding programs, should not, in my judgment, be considered as so-called back-door funding. Section 32 of the 1935 act was explicitly designed to remove agricultural commodities in surplus for donation to domestic feeding programs.

Recent action, by the Budget and

Agriculture Committees suggests that they have taken it upon themselves to negate the purpose of this act—which, in my judgment, is beyond their power. Section 32 funding of domestic feeding programs was not included under the Budget and Impoundment Control Act as a back-door fiscal program.

The food stamp and special milk programs are entitlement actvities and the funding increases in this bill are required in fulfilling the law. Enrollment in the food stamp program has now gone over 19 million and may reach 21 or 22 million.

The $105 million for the Forest Service is the usual catch-up funding for forest firefighting. There is no difference with the House over the amount needed.

It also is urgent that approval be given of the full $100 million for insured farm operating loans. Some States are without funds for this program.

Mr. President, most of the amounts in this bill have either been mandated by law or have been received from the Department of Agriculture since the House acted. The record should be made clear that these funds are urgently needed and should be approved without delay.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing increases in the second supplemental appropriations bill recommended by the Senate over the House figure with respect to agriculture.

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

2D SUPPLEMENTAL APPROPRIATIONS BILL, 1975
(AGRICULTURE)

[In dollars]

	Increase		
	House amount	Over House	Senate recommended amount
School feeding program	24,623,000	100,233,000	124,856,000
Special food (summer feeding)		52,000,000	52,000,000
Food stamp program		884,815,000	884,815,000
Special milk program		5,000,000	5,000,000
Total	24,623,000	1,042,048,000	1,066,671,000
Forest Service	105,000,000		105,000,000
Agricultural Credit Insurance (insured loans)		100,000,000	100,000,000

Mr. BUCKLEY. Mr. President, I wish to state my support for the provision in H.R. 5899 that appropriates $350,000 to the Fish and Wildlife Service. This is money to initiate an environmental study of changing water levels in Lake Champlain. The distinguished senior Senator from Vermont (Mr. STAFFORD) has explained in detail the need for this supplemental appropriations. We need it to demonstrate our concern with the flooding problems in Canada, and we must show our willingness to act to resolve the questions relating to Lake Champlain levels. Any eventual action by Canada may have the impact of lowering the lake's average level by about 18 to 24 inches. While that may not sound as if it is very much, it could have a drastic effect on the character and size of the wetland areas adjacent to the lake. To what effect? What vegetative changes would occur? What would be the effect on migratory waterfowl use? I want to quote from the March 1975 interim report by the International Joint Commission (IJC). This report analyzed the need for a lake-level study:

> It is reasonable to assume that the shallows of the Lake, and in particular the adjoining wetlands, hold the secret of the Lake's diversity and success. Lake Champlain wetlands have remained essentially intact because of limited residental and industrial development. . . . There is also an increasing belief that marshes may play an important role in maintaining water quality of the Lake and its estuaries.
>
> The Commission concludes that a study to determine environmental benefits and costs is necessary before it can develop the most practicable method of regulation, "the joint environmental studies should be initiated as quickly as possible. . . The Commission concluded that it is essential that both Governments provide the requisite initial funding as quickly as possible in order to assure the earliest undertaking and completion of the necessary studies.

Mr. President, I urge the approval of this money so that the study can go forward.

I want to express a word of commendation to the subcommittee's chairman (Mr. ROBERT C. BYRD) and its ranking Republican (Mr. STEVENS) for their interest in assuring that this provision was retained in the bill. And I want to say a word to the distinguished Member of the House, Mr. MCEWEN, for his effective leadership in bring this provision to the attention of the House and having it included in the House bill.

Mr. MAGNUSON. Mr. President, I would like to say a few words about chapter VI of the supplemental bill—the Labor-HEW portion.

The bill includes $8.5 billion, an increase of $360 million over the budget and $220 million over the House amount. The two largest items in the bill are an all-too-familiar product of our faltering economy: $5 billion to meet unemployment payments in the States through fiscal year 1976; and $1.7 billion required to meet increasing welfare and medicaid needs in the States. To get an idea of just how serious the situation is, the welfare estimate drawn up last year was understated by more than $1 billion; the estimate we got in February—just 3 months ago—was off by $360 million. Obviously, the costs of a faltering economy go far beyond paying out welfare and unemployment checks.

Other major items in the bill include:

For Headstart and native American programs, $484 million, an increase of $22 million over the House bill. Headstart serves about 334,000 youngsters, of which about 35,000 are handicapped. The increase recommended will help cover the rising cost of living as well as the additional cost of enrolling a handicapped child.

For the new Community Services Administration, $500 million, an increase of $45 million over the House. This is the unit that runs about 880 urban and rural community action agencies around the country, serving about 21 million poor people. It also operates senior citizens' centers to help out 800,000 older Americans. In addition, the committee put back in $30 million for the emergency food program. This program has been working well in serving the needy; yet the budget tries to wipe it out every year.

Included to continue the emergency school aid program at last year's level, $236 million—no more, no less. About half the Senate's Members wrote us in favor of this level.

Provided for health resources, the bulk of which is to implement the new Health Planning and Resources Act, $126 million. This will provide the seed money for the new health systems agencies that are supposed to coordinate health care in the United States. In addition, the bill includes $50 million to allow the regional medical programs to make an orderly transition. Also included is $29 million for the District of Columbia medical facilities.

Other programs provided for in this bill include: $184 million for social security; $83 million to pay student loan default claims; and $15 million to maintain the veterans' cost-of-education program.

It would be a rare occasion if we didn't have at least one controversial item in connection with Labor-HEW programs. This time it's House bill language prohibiting the payment of unemployment benefits during the summer to teachers who have a contract. I can assure you we struggled with this one for some time—but the committee decided to agree with the House. However, we added technical language suggested by the Secretary of Labor so that no funds from this appropriation, nor any other appropriation, could be used to pay these benefits.

The Senate also added bill language to the Public Assistance account which prohibits HEW from deducting Federal, State, and locally contributed seed-money from any mental health center's reimbursement under social services. HEW's current policy is a disincentive to centers when it comes to treating the needy. It also penalizes centers when they try to collect for services rendered. The committee's language would help the centers become self-sustaining and less reliant on Federal grants.

Everyone here knows my feelings about these supplemental bills. This is the sixth one we have worked on this fiscal year. I certainly hope this new budget reform system will improve on this problem instead of encouraging a constant flow of supplementals up Pennsylvania Avenue. Hopefully, this will be our last supplemental this year, and we can now turn our attention to getting out the Education and regular Labor-HEW bill for fiscal year 1976.

I ask unanimous consent that the following table be inserted in the RECORD.

There being no objection, the table

was ordered to be printed in the RECORD, as follows:

Current status of Labor-HEW chapter of the second supplemental

(H.R. 5899)

Budget Estimates	$8,104,569,000
House Bill	8,245,067,000
Senate Committee Recommendation	8,465,412,000
Compared with:	
Budget estimates	+360,843,000
House bill	+220,345,000
Major Changes over the Budget:	
Emergency school aid	+161,493,000
Regional Medical Programs	+38,000,000
Head Start	+37,700,000
Emergency food and medical services	+30,000,000
Energy conservation services	+19,000,000
Veterans's cost-of-education	+15,000,000
D.C. medical facilities	+29,575,000
Community service programs	+30,200,000

Mr. BROOKE. Mr. President, I believe the chairman (Mr. MAGNUSON) has adequately covered the work of our Labor-HEW Subcommittee on the second supplemental and I shall not try to duplicate what he has said.

I would like to address myself to a few aspects of our Labor-HEW chapter of the bill, chapter VI, which are of particular concern to me.

One is the funding for the emergency school aid program which is designed to assist local school districts deal with problems relating to school desegregation.

The administration asked only $75 million for this program which operates on a forward-funded basis. This means that the money we appropriate now will be for use in the upcoming school year.

There is, at best, limited support for the administration proposal in the House and the Senate. Indeed the House increased the administration request by $50 million to $125 million with instructions to carry out the program according to the law, which provides for formula grants to the States.

This is a good start, but it is clear to our committee and to many Members of the Senate that still more is required.

The process of school desegregation is not finished. The Federal courts are considering a number of desegregation orders and only recently Judge Pratt of the Federal district ordered HEW to examine some 170 school districts to determine whether compliance problems exist and further desegregation is required.

As school districts come under court orders, agree to HEW administrative actions or undertake voluntary desegregation plans, they likely will seek funds under ESA to help in the often difficult transition to a desegrated school system.

The demand for ESA funds increased 19 percent in fiscal 1974 over fiscal 1973, according to HEW. The Department expects a heavy demand this year with 1,700 to 2,000 applicants for ESA funds. Clearly, many school districts are sufficiently concerned about problems of race relations to seek additional assistance in this area.

Some individuals, seeking to hold down the ESA appropriation, argue that only a few court desegregation orders will become effective this fall. It is important to remember, however, that the districts involved in these orders represent the most critical problems. There literally are hundreds of school districts which have taken desegregation steps only in the recent past and have a continuing need for ESA assistance to smooth the transition to a unitary school system.

Thus the need for human relations counselors, teacher training programs, new curriculum approaches, and community involvement, to cite several areas, is not a short-term one. It may last for a number of years beyond the time when a school desegregation plan is first implemented.

Reflecting the continued high level of local need for the ESA program, more than 40 Senators from all parts of the country joined in a letter to our subcommittee urging that we increase the House allowance to the fiscal 1974 level of $236,493,000.

I was glad to move in subcommittee to provide this level of funding and I am pleased my amendment was accepted without opposition both by our subcommittee and by the full Appropriations Committee.

The emergency school aid program can make an important contribution toward the goal of equal educational opportunity, but to do so it must have at least the level of financial support provided by our committee.

Our committee also amended a House provision which HEW says will reduce its ability to take action against school districts which are illegally segregated. The language not only would interfere with the enforcement of title VI of the Civil Rights Act but could prevent HEW from certifying school districts for eligibility to receive emergency school aid.

Our committee wisely changed the House provisions back to the same language on this matter included in the regular fiscal year 1975 Labor-HEW bill.

Our committee also has provided an additional $22 million for the Head Start program; $10 million of this amount is to offset the effect of inflation on Head Start programs. The additional $12 million is to provide a more adequate level of support for the 35,000 children enrolled in Head Start.

Mr. President, at this point I would like to read from our committee report because I believe it most adequately explains what we had in mind for Head Start:

> The Committee is not convinced that the budget request or the House allowance is sufficient to meet increased costs of local Head Start projects, nor does the budget reflect the higher costs which would result with expanded enrollments of handicapped children. Of the increase provided over the House bill, $10,000,000 would be focused on providing a realistic level to help offset the toll inflation has taken on local Head Start programs. Without this additional support, local grantees would undoubtedly have to cut back on (1) the number of children served, and (2) the quality of services provided each child.
>
> The remainder, $12,000,000, together with an additional $8,000,000 appropriated by the House, is aimed at providing a more adequate level of support for the 35,000 handicapped children enrolled in Head Start. Estimates of the additional cost of serving handicapped children range as high as $1,151 per child or nearly twice that of the nonhandicapped child. The Department has requested $20,000,000 for Head Start handicapped in fiscal 1976. The Committee, in accepting the House increase and in adding $12,000,000 more, is thus providing the $20,000,000 in this supplemental bill to assure its availability in time for the beginning of the 1975–76 school year when most of it will be needed. Providing these funds at this time will give HEW and local grantees sufficient time to carefully plan for their use in the upcoming school year.

I am pleased the committee accepted this amendment which I was glad to author.

Our committee also provided $10 million, under another amendment I sponsored, to initiate a program of *providing* loans and grants to help poor families meet delinquent utility bills and thus avoid the cut off of service.

I view this as "seed" money in the sense that it can generate contributions from local sources to swell the total amount available to meet the problem.

I urge the adoption of chapter VI.

Mr. BAYH. Mr. President, for chapter X of this bill, the committee recommends appropriations totaling $842,059,000 in new budget authority. This represents an increase of $714 million over the House bill and $710,530,000 over the budget requests. The major cause of the large increase over the budget and House is the $700 million amendment we have included to enable the Secretary of Transportation to begin a program of rehabilitation on the Nation's railroad roadbeds and tracks.

Mr. President, the committee had included this same amendment in the Emergency Employment Appropriations Act in anticipation of early consideration by the Congress of the authorizing legislation necessary to implement a program of this sort. In conference with the House on that amendment, after extended discussion of the merits of this type of program and the reasons why the Senate considered it imperative that such a program be started this summer when the greatest number of people could be put to work on the roadbeds, it became clear that the conferees from the other side could not accept an amendment of this kind without there being an authorization for it already in existence.

Consequently, the House rejected the Senate amendment in the Emergency Employment Appropriations Act as well as a preferential amendment offered by Mr. CONTE, the ranking Republican member of the House Appropriations Subcommittee on Transportation, reducing the appropriation from $700 million to $200 million. As a result of that vote, the Senate receded in its amendment when the conference report was voted upon this past Friday.

However, also this past Friday, the Senate passed by a vote of 67 yeas to 10 nays, the authorization necessary to begin the type of rail rehabilitation program the committee had in mind in making the appropriation. By again including this appropriation of $700 million for rail reemployment and rehabilitation in the second supplemental appropriations bill, the committee is reemphasizing its view that this type of program is urgently needed in order to forestall any further deterioration of the tracks and

roadbeds over which our Nation's trains must operate.

Mr. President, I will not take the time of the Senate here this morning to belabor the merits of this program any further. I think the vote on S. 1730 last Friday and the comments of my distinguished colleagues at that time have made the view of the Senate crystal clear in that regard. I only want to say that the reasons which I, and the other members of the committee who joined me in introducing this amendment in the other bill, had in mind are still just as important today and perhaps even more important than they were several weeks ago. What we had in mind then and what we have in mind now is to provide reemployment opportunities for railroad workers who have been laid off because of the financial crisis being faced by the railroad industry.

There are presently some 31,000 railroad employees, including over 15,000 maintenance-of-way workers, drawing unemployment benefits. They are not at work even though many of the railroad companies have a sufficient supply of the materials necessary to utilize their skills because the railroads simply do not have the money to pay their salaries. As we point out in the report accompanying this bill, the railroad industry during the first quarter of 1975 reported losses exceeding $100 million while during the same period last year they reported profits over $170 million.

Needless to say, the railroad industry has been brutalized by the current recession perhaps to a greater degree than any other industry. Consequently, they have been forced to reduce their expenses and, accordingly, workers who would normally be out there repairing and improving the roadbeds and tracks are sitting at home and drawing unemployment benefits.

Surely, there is no question that the Nation cannot afford to allow our railroads to continue to operate under the conditions they have been forced to endure in the past. This legislation is not a cure-all for the major and complex problems of the railroads. It is a program, however, that will prevent the track and roadbeds from further decline while the committees of the Congress have the time to resolve the problems of railroads on a long-term basis. There is no need to have people unemployed and the roadbeds rotting while that long-term effort is being carefully and prudently worked out.

I would only hope that the authorizing committees of the other body of the Congress, now that a Senate authorization for this program is in existence, will proceed as expeditiously as they can to consider the merits of this program and the need to get it started this summer during the "peak season" for roadbed work. Otherwise, the most appropriate and effective time to have begun such a worthy effort will have passed us by.

Mr. President, I would also point out that the $5 million which the committee has included for the administrative expenses of the U.S. Railway Association is an increase over the budget as well. We included this money for USRA even though this same appropriation is already included in the emergency employment appropriations bill due to the danger that bill faces of being vetoed. Consequently, we are over the budget and the House by $5 million in this bill. The committee felt that, due to the important function the USRA is presently performing of preparing the final system plan under the Regional Rail Reorganization Act, a special effort should be made to see that their request is not unnecessarily delayed. Since, by this action, the USRA's $5 million request will be included in two appropriation bills, the committee will take whatever action it finds necessary to rectify that situation in the fiscal 1976 budget if both bills should become law.

The other major appropriation of new budget authority which we are recommending is for Amtrak. The House cut the $77.9 million budget request by $3,175,000. The Secretary of Transportation appealed for full restoration and made a good cause for it. Since Amtrak has virtually no control over which lines they will operate and which ones should be terminated, the resultant losses are bound to occur. If we are to get better control of their loss situation, it must come through changes in their authorization. The committee, therefore, recommends restoration of $3 million of the House reduction.

For railroad safety, we recommend concurrence with the $1 million included in the House bill. This will enable the FRA to put together a computer rail car that will help them in their track inspection responsibilities.

For the Urban Mass Transportation Administration, the committee recommends concurrence with the House allowance of $50 million in liquidating cash to pay off obligations incurred under the National Mass Transportation Assistance Act. We have also included $5 million for fare-free demonstration projects even though there was no budget request for it and nothing was included in the House bill. The National Mass Transportation Assistance Act, which became law late last year, authorized $40 million for this program. In the overview hearing on the Department's fiscal 1976 budget, Secretary Coleman indicated that the information that could be obtained from such fare-free transit experiments would be most useful to the Department in its efforts to arrive at some means of increasing usage of mass transit facilities in our urban areas. The committee intends that these funds be used to initiate such programs in one or more urban areas.

For the Federal Highway Administration, we concur with the House action in appropriating $360,000 for the railroad-highway crossing project at Lafayette, Ind. This appropriation will be used to fund an engineering and feasibility study for possible rail relocation in that city.

Also, the committee has included $1 million for engineering studies of the Overseas Highway, which connects the Florida Keys with the mainland. The authorization for this program is contained in the Federal-Aid Highway Amendments of 1974.

We recommend concurrence with the House allowances for the Coast Guard's operating expenses of $24.5 million and retired pay of $9,150,000, in addition to their allowance of the full budget requests of $500,000 for the Rail Services Planning Office of the ICC and $17,824,000 for the Washington Metropolitan Area Transit Authority.

For the pay costs included in title II of this bill for the Department of Transportation and related agencies, we concur with the House allowances totaling $69,674,000—a reduction of $2,922,625 below the budget requests of $72,596,625.

Mr. FANNIN. Mr. President, I commend the Committee on Appropriations and in particular, its chairman, Senator McCLELLAN, and the chairman of the Interior Appropriations Subcommittee, Senator ROBERT C. BYRD, for the approval of the joint request of Senators METCALF, JACKSON, GOLDWATER, MONTOYA, MANSFIELD, DOMENICI, and myself for funds to implement section 204 of Public Law 93-638, the Indian Self-Determination and Education Act of 1974. Section 204 established a school construction program to meet the critical needs of reservation public schools and previously private schools now managed by Indian tribes. By providing $10 million to inaugurate the public school portion of this program, in this fiscal year, the committee will set in motion a much-needed response to the ever-increasing need for adequate modern facilities to serve Indian children attending reservation public schools.

Mr. President, I have long been concerned with the apparent inability or unwillingness of the Federal Government to meet its responsibility to provide adequate construction assistance to public schools serving Indian children residing on or near reservation Indian lands. These Federal lands, which are tax exempt, create financial conditions which make it impossible to obtain sufficient local funds for construction projects. Through the impact aid program, the Federal Government has long recognized this problem but regretably, has failed to provide the funds to meet the policy objectives established in Public Law 815, the impact aid school construction program. For example, under the 1974 budget, $19 million was appropriated to support Public Law 815, of which $9.5 million, or 50 percent of the total would be allocated to sections 14(a) and 14(b), the reservation public school portion of Public Law 815.

This $9.5 million allocation would cover the construction needs of perhaps five schools. Yet, there were 39 eligible applications approved for funding with a total cost of $37,347,202. Clearly the 1974 budget was inadequate to meet the needs of those schools serving reservation Indian children. Moreover, the 1975 budget requested only $10.5 million for 14(a) and 14(b) to meet a backlog which had grown to $45 million. Again, this level of funding could only cover the needs of a few schools.

The lack of funds for reservation public schools has had a clearly pronounced effect on the capacity of these schools to meet their educational objectives. The continuing growth in student enrollment in schools whose facilities are inadequate if not outdated can only make a bad situation worse. In view of the critical situ-

ation which the lack of funds has produced, I sponsored legislation to alleviate this problem. This legislative response took the form, with slight modification, of section 204 of Public Law 93-638. In brief, section 204 established a construction program within the Department of Interior through which funds would be provided to supplement the Public Law 815 program operated within HEW. This program will help to overcome existing funding deficiencies, but more importantly, will hopefully reduce the waiting time between the filing of an application for needed school funds and the delivery of funds for implementing an approved application.

Mr. President, this program could not have come at a more important time. With financial demands increasing and enrollments rising, the reservation public schools are facing funding dilemmas of considerable proportion. The temptation to shift scarce resources from instructional or special program needs to meet capital outlay projects is great, but with section 204 there is a chance that such decisions can be avoided and needed instructional funds can be maintained to assure a quality educational program for our Indian citizens. But of even more importance, the 1976 budget proposes an appropriation of only $10 million to cover Public Law 815, of which less than $5 million is to be used for reservation public schools under sections 14(a) and 14(b). This proposal only repeats the previous budget requests: Insufficient funds to meet a backlog of large dimensions.

Mr. President, the action of the Appropriations Committee restores my confidence that in the face of clear need we can act. The appropriation of these funds will realize expanded opportunities to assure a quality educational program for our Indian children. I commend the committee for its action and hope the conference committee will accept this provision.

PROTECTING THE AMERICAN READING PUBLIC

Mr. GOLDWATER. Mr. President, I am pleased that the Committee on Appropriations has approved the full funds requested by the U.S. Postal Service for fiscal year 1975 to implement Public Law 93-328.

In brief, this law, of which I am a coauthor, provides that excessive increases in the postage rates of newspapers, magazines, and books shall be spread over a longer number of years in order to enable these mail users to adjust to the higher costs.

Mr. President, these payments are very much in the public interest. The primary benefactor of this law is the entire American reading public—anyone with an interest in the printed word.

What is at stake is the opportunity for the American reading public to enjoy the widest possible circulation of news, information, and opinions in the mails, a privilege which has been a part of the fundamental heritage of our citizens since the founding of the Nation.

The total circulation of newspapers and magazines, both nonprofit and profit, in the mails is 9 billion issues of year. This includes some 2.6 million copies of daily newspapers each day, more than 50 percent of all weekly newspaper circulation, and two-thirds of magazine circulation.

Moreover, and this is very important, half of the books acquired by public libraries are delivered by mail. Also, numerous libraries operate an extensive interlibrary loan-by-mail program and a book-by-mail program for the benefit of many citizens, including the handicapped.

If these funds are not appropriated, these public service library programs will be sharply curtailed. Many veterans, church, farm, and other publications—which are faced with increases in postal rates up to 1,000 percent—will fold. Those that survive may be forced to change their format, or frequency of publication, to the public disadvantage.

If these funds are not approved, profit publications must squeeze into 1 year the full burden of postage increases that public law provides shall be staged over 4 years; nonprofits must cope with 12 years of increases in only 6 years.

Mr. President, in closing, I would note that section 3 of Public Law 93-328 includes a provision requiring the President to transmit to the Congress in his budget the totals required to reimburse the Postal Service for revenue foregone because of the phasing of postage increases.

Certainly, the President can make recommendations and the Congressional Appropriations Committees can consider the funds, as in the case of any budget presentation, but Congress has expressly mandated a precise means by which Congress is to deal with these funds, and this must be complied with by including the funds required for this purpose in the President's budget totals.

For some reason, this practice was not followed in the presentation of the 1975 budget, and I am delighted that my colleagues did not permit that failure of compliance to interrupt the phasing program. A lack of compliance with the law should obviously not serve as a reason for penalizing the American reading public.

Mr. PACKWOOD. Mr. President, today we are being called on to vote for almost $16 billion in supplemental appropriations for fiscal year 1975. I intend to vote for this bill for reasons I will outline, however, I have very serious misgivings about the magnitude of this additional spending. It is $1 billion in excess of what the administration requested.

The comprehensive nature of the bill and the demonstrated urgency of the majority of the programs it funds convince me that this bill is necessary. The bulk of these funds will be used to extend ongoing programs, among them continuing aid to education, to our veterans, and to the unemployed who are deserving of assistance in these particularly difficult times. Additional funding for energy research and development is also included. I support these programs, Mr. President.

Notwithstanding the many essential appropriations included in this bill, I do not sanction the increase of $1 billion over the President's budget requests. If these appropriations were to come before the Senate as separate measures, I would vote against a number of them.

However, the fact remains that this bill is a conglomerate of many useful and necessary expenditures, and for this reason I will vote in favor of it.

Mr. PROXMIRE. Mr. President, I want to add my words of praise for Senator McCLELLAN, our chairman, for the skill and diligence he has shown in shepherding this difficult and complicated bill through the Appropriations Committee.

As all subcommittee chairmen know, this is the season when supplemental budget requests fly thick and fast. No sooner did we receive a bill from the House than additional budget requests started to flow in from the administration. The HUD-independent agencies section of the bill contains $535 million in Veterans' Administration pension and GI bill money that was requested after the House acted. Other subcommittee chairmen have had the same experience.

In this atmosphere it is a particularly difficult matter to move the bill quickly, but not too quickly—to make sure that needed money is included but that the legislation is acted upon quickly enough to provide funds in a timely fashion. Chairman McCLELLAN has acted with all deliberate speed, so that we have a bill before us today which should meet the Nation's most pressing needs through the end of the fiscal year.

As I indicated the Senate has added $535 million to the House-passed version of title IV of this bill to provide unanticipated GI bill and pension benefit costs. Of this amount $425 million would pay for a sharp rise in the number of veterans applying for educational benefits while $110 million is needed to pay increased pension costs resulting from the adverse impact the recession has had on pensioners' income. The Government has an obligation to pay these costs. Veterans are entitled to the benefits under law.

These funds, together with the $217,547,000 provided in the bill as it passed the House and approved by the Senate Appropriations Committee for various VA programs, bring total supplemental VA funding in fiscal 1975 to $2,283,540,000. They boost total appropriations provided by title IV of the bill from the $274,172,000 approved by the House to $809,172,000. So we can see that the continuing escalation in the costs of our veterans' programs continue to play a significant role in the overall budget picture.

The committee has expressed its concern over the decision of the VA to request funds for major and minor construction through the supplemental appropriations process. Certain deficiencies at various VA hospitals were identified as a result of a quality-of-care survey. The cost of correcting these inadequacies will initially be $63,441,000. But this is just the down payment. The Congress will have to provide an additional $137,494,000 at a minimum to finish the job.

Decisions of this magnitude should be handled through the normal appropriations process, not through supplemental funding. It is for this reason that the committee has provided the major and minor construction funds contained in this bill with the greatest reluctance and

with the strong recommendation that the VA develop a capability for identifying needs of this sort in the course of routine budget review.

The only funding included in chapter IV of this bill that was not requested by the administration is $54,625,000 for the Department of Housing and Urban Development's community development block grant program. These dollars would be spent to fund projects in so-called urban balance communities—cities of under 50,000 population in standard metropolitan statistical areas.

This money was added to the bill on the floor of the House after it was discovered that in the absence of earmarked funding no money would be made available to these communities in fiscal 1975. There has been a great deal of support for this item in the Senate. It would fund approximately 190 applications at an average cost of $286,000. This appropriation exhausts all available authority to provide dollars to implement the program in the current fiscal year.

Mr. President, I want to make it crystal clear that by approving this earmarking the Appropriations Committee did not intend to endorse a change in the allocation provisions of the statute.

As chairman of the Committee on Banking, Housing and Urban Affairs, I would oppose changing the statutory allocation until we gain additional experience under the program and until the Committee on Banking, Housing and Urban Affairs is able to consider proposed amendments to the new law.

In short, the Appropriations Committee is recommending supplemental community development funds in this bill to satisfy the intent of the 1974 law, and not to change that law or establish any precedent for revising it through appropriations acts.

Undoubtedly the most controversial action we have taken is to make the availability of pay raise money for the Department of Housing and Urban Development contingent on the willingness of HUD to spend section 235 homeownership assistance program funds. As most of my colleagues will recall the Congress has clearly indicated its intent that these section 235 funds should be spent. We have treated the administration's decision not to spend the money as both a deferral and a rescission and in both instances we have told HUD to get on with it. They have refused—insisting that this decision to withhold $264 million appropriated for the section 235 program is not subject to congressional override.

The release of section 235 money would result in the production of 200,000 housing units at a time when jobs are badly needed, particularly in the construction industry. HUD testified before our subcommittee that no new housing units would be available for occupancy under the section 8 program—the Department's substitute for section 235—for at least 18 months. The 235 program is tried and true. The language in today's bill would press HUD to spend money that could create jobs quickly—money the Congress wants spent. It would tell HUD in no uncertain terms that this Congress wants to see the Department build homes and provide jobs now—not 18 months from now.

The only item in chapter IV of the bill that I have not discussed is the $2 million provided for the National Commission on Water Quality. This relatively modest amount will permit the Commission to finish its job of completing a study of the ramifications of meeting our water pollution control goals by 1983. It will provide the last of the $17 million authorized by the Congress for the Commission's work.

I urge the Senate to pass this legislation quickly so that needed funds—especially the section 235 money—may be made available in the near future.

APPROPRIATION FOR SPRUCE BUDWORM SPRAYING PROGRAM

Mr. MUSKIE. Mr. President, I wish to commend the Committee on Appropriations for supporting the Forest Service request for $5 million for insect and disease control programs in the second supplemental appropriation before us today. The funds for control of insect infestations includes $3,975,000 to control spruce budworm in northern Maine, $885,000 to control the Southern pine beetle throughout the Southern States, and $400,000 for control of the mountain pine beetle in areas of Wyoming, Colorado, and South Dakota.

The severity of the spruce budworm outbreak in my home State of Maine makes this appropriation imperative. Due to unusual climate conditions the infestation of the spruce budworm has reached alarming proportions in Maine. The U.S. Forest Service reports that of the 7.9 million acres of spruce-fir forest in Maine, 5.3 million acres are now experiencing moderate to heavy infestation. In order to prevent widespread mortality and topkill, forestry officials estimate that a minimum of 2 million acres will have to be sprayed by June 1 of this year—13 days from now.

I cannot overemphasize the importance of the forest to Maine, the most heavily forested State in the Union. The lumber, paper, and recreation industries represented are the backbone of Maine's economy. The forest products industry provides one-third of the jobs in the State, and contributes 40 percent of Maine's annual manufacturing output.

A recent Time magazine article estimates that if the trees on the 3.5 million acres most seriously infested are killed, the United States will lose enough wood to have built 13 million houses or enough paper to have kept 92 million Americans in newspapers, tissues, and wrapping for a year. That is not the only potential loss. Maine would be deprived for the 40 years needed for forest regeneration of at least $13.6 million a year in taxes from the forest-products industry. Workers and businessmen serving the timber industry could lose another $106 million per year. Beyond that, Maine's $450 million-a-year tourist industry will suffer; no campers or hunters will want to go into a gloomy wasteland of dead trees.

Mr. President, if the spruce budworm infestation is left unchecked, its effects on an already sagging economy could be catastrophic.

The impact resulting from heavy defoliation would be tragic in other ways. Severe mortality would increase forest fire hazards. Further destruction of the spruce-fir forests would jeopardize fish and wildlife populations and increase erosion problems.

Clearly, prompt and effective control of this insect pest is a matter of high priority. Complicating the control effort is the pressure of time. The life cycle of budworm is such that spraying must occur by June 1 in order to achieve maximum control.

In the fight against this insect pest, there has been constant and commendable cooperation among the Maine Bureau of Conservation, the U.S. Forest Service, paper and forest products companies and other landowners, the Maine legislature, and the entire Maine delegation to Congress. As a result, the complicated process of preparing for the spraying has been completed. The 50-percent Federal share of the costs which this appropriation represents is a major remaining hurdle. Aircraft chartered to do the spraying are to begin arriving in Maine today, in anticipation of the Federal funds.

Mr. President, the House has already supported the full appropriation for spruce budworm control, and it also has the support of the administration.

Due to the special nature of the problem and the serious time constraints involved, I urge my colleagues to support swift passage of this legislation and a prompt resolution in conference of the differences in the House and Senate supplemental appropriations measures. It is my hope, and the fervent hope of all those involved in the battle against budworm, that a supplemental appropriation will be enacted into law before the start of the Memorial Day recess.

Mr. STEVENS. Mr. President, I rise in support of the general provision printed on page 41, line 11, of the committee amendment. This provision was recommended by the President in his budget, and would permit the Department of Defense to reimburse the Postal Service for mail services rendered the Department in fiscal years 1973 and 1974, from expired appropriations for those years.

The need for this additional payment arose because initial budget estimates for these years had to be drawn up back in 1972 at a time when the Postal Service and the Defense Department had just developed an improved sampling system for measuring the Department's indicia mail volume. Inadequate samples were available at that time under new procedures to permit a hard and fast projection of volume for the years in question. Subsequent samplings have shown that the additional volume was used and it is my understanding that the Department of Defense, the General Accounting Office, the Postal Service, and the Office of Management and Budget are all in agreement that this money is owed to the Postal Service for services rendered and that it ought to be paid.

This provision was deleted in the House on the theory that the Postal Service ought to write this off as a bad debt. If the debt is not paid the practical effect will be that other postal customers will

continue to bear these costs which should have been paid by the Department of Defense. In my opinion, it would be unconscionable, in these times when we expect the public to pay the increasing postal rates that come with persistent inflation, for the Government to shirk part of its own postal debt and place this additional burden on postal customers.

There is simply no getting around the fact that this debt is owing and should be paid. The general provision is needed and should be enacted.

I understand that some question has been raised whether this provision might be subject to a point of order as a reappropriation of funds. In my judgment, there is no reason to challenge the provision on that ground. Under section 701 of title 31, the Secretary of Defense already has authority to restore and apply the very funds covered by the language to the debt in question. This is simply a matter of correcting a previous underestimate of the cost of services provided and funds are yet remaining which can be applied to that purpose under present law. We are saying only that that should be done in accordance with existing law.

SUPPORT FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION APPROPRIATIONS

Mr. BAYH. Mr. President, today the Senate is considering an appropriation of funds for a measure which far too long has been denied proper implementation—the Juvenile Justice and Delinquency Prevention Act of 1974.

This act which I introduced some time ago is designed specifically to prevent young people from entering our failing juvenile justice system, and to assist communities in developing more sensible and economic approaches for youngsters already in the juvenile justice system. It creates an Office of Juvenile Justice and Delinquency Prevention in the Law Enforcement Assistance Administration of the Department of Justice to coordinate all Federal juvenile justice programs now scattered throughout the Federal Government. It establishes a National Advisory Committee on Juvenile Justice and Delinquency Prevention to advise LEAA on Federal juvenile delinquency programs. It also provides for block grants to State and local governments and grants to public and private agencies to develop juvenile justice programs with special emphasis on alternative treatment and prevention.

Mr. President, the need for adequate implementation of this legislation is all too obvious for those concerned with the rising tide of crime in America; a frightening phenomena that is largely the result of a rapidly escalating crime level among our young people.

While youths between the ages of 10 and 17 make up 16 percent of our population they account for fully 45 percent of all persons arrested for serious crime; 51 percent of those arrested for property crimes and 23 percent for violent crimes had not yet reached their 18th birthday. That part of our population under 22 years old account for 61 percent of the total criminal arrests in this country.

The seriousness of the present situation was dramatically underscored in testimony submitted just recently at our subcommittee's inquiry into juvenile delinquency in our elementary and secondary schools. It was estimated at that hearing that vandalism in our schools is costing the American taxpayer over $590 million per year. Moreover, a survey of 757 school districts across the country conducted by the subcommittee staff found that teachers and students are being murdered, assaulted, and robbed in the hallways, playgrounds, and classrooms of American schools at an ever-escalating rate. Each year, in fact, approximately 70,000 teachers are physically assaulted in this country.

Who can dispute the need for immediate action? The recently released Federal Bureau of Investigation report on trends in crime for 1974 presents additional confirmation of the rising tide of criminal activity in America. Serious crime in the United States rose 17 percent last year, the highest annual increase since the FBI began collecting crime data 45 years ago. In fact, the increase for the final quarter of 1974 had reached 19 percent.

The suburban increase for last year was 20 percent while crime in rural areas increased 21 percent. In smaller communities—under 10,000—crime increased by 24 percent last year while robbery went up by 30 percent.

It is important to stress that these are problems that impact on the lives of our citizens in rural, suburban, and urban areas. In fact, one who reviews the top 50 crime centers, based on the number of serious crimes per 100,000, will discover Phoenix, Ariz., Daytona Beach, Fla., Fresno, Calif., and Albuquerque, N. Mex., among the top 10 in the Nation.

Mr. President, this is not the first occasion on which I have found it appropriate to emphasize these tragic and startling statistics. For more than 4 years as chairman of the Subcommittee on Juvenile Delinquency, I have stressed these concerns, but more importantly the failure of the Federal Government to adequately respond to juvenile crime and to make the prevention of delinquency a Federal priority.

The Juvenile Justice and Delinquency Prevention Act is the product of these many years of work. It was developed and supported by bipartisan groups of citizens throughout the country and was sent to the President by strong bipartisan majorities of 88 to 1 in the Senate and 329 to 20 in the House.

The act recognizes that our present system of juvenile justice is failing miserably. It is based on our findings that the present system is geared primarily to react to youth offenders rather than to prevent the youthful offense. It is, likewise, predicated on conclusive evidence that the system fails at the crucial point when a youngster first gets into trouble. The juvenile who takes a car for a joy ride or the youngster who thinks shoplifting is a lark are often confronted by a system of justice completely incapable of dealing with them in a constructive manner.

I am all too aware of the limited alternatives available to the juvenile judges in communities across this Nation when they are confronted with the decision of what to do with a juvenile involved in an initial, relatively minor offense. In many instances the judge has but two choices—send the juvenile back to the environment which created these problems in the first place with nothing more than a stern lecture, or incarcerate the juvenile in a system structured for serious offenders where the youth will invariably emerge only to escalate his level of law violations into more serious criminal behavior.

In addition to the dilemma we now face as to what we do with the young troublemaker, we are also confronted with thousands of children who have committed no criminal act in adult terms. In fact, almost 40 percent of all children involved in the juvenile justice system today have not done anything which could be considered a violation of criminal law. Yet these children—70 percent are young girls—often end up in institutions with hardened juvenile offenders and adult criminals. Instead of receiving counseling and rehabilitation outside the depersonalized environment of a jail, these youngsters are comingled with youthful and adult offenders. There should be little wonder that three of every four youthful offenders commit subsequent crimes.

Some youthful offenders must be removed from their communities for society's sake as well as their own. But the incarceration should be reserved for those youths who cannot be handled by other alternatives.

Each year an excessive number of juveniles are unnecessarily incarcerated in crowded juvenile or adult institutions simply because of the lack of a workable alternative. The need for such alternatives to provide an intermediate step between essentially ignoring a youth's problems or adopting a course which can only make them worse, is evident.

Mr. President, the recidivism rate among youthful offenders under 20 is the highest among all age groups and has been estimated at between 75 to 85 percent in testimony before our subcommittee. Obviously, past Federal efforts to provide alternatives have been inadequate and have not recognized that the best way to combat juvenile delinquency is to prevent it. The act represents a Federal commitment to provide leadership, coordination, and a framework for using the Nation's resources to assist State and local agencies, both public and private, to deal more effectively with juvenile crime and delinquency prevention.

Moreover, this legislation provides a workable program for delinquency prevention. A recently released General Accounting Office report found that, if this act were properly implemented, it "should help prevent and control juvenile delinquency."

In order to properly implement this very promising program, Mr. President, we need a sufficient appropriation of money. As Elmer Staats, Comptroller General of the United States, testified at a recent hearing of our subcommittee:

> Since juveniles account for almost half the arrests for serious crimes in the Nation, adequate funding of the Juvenile Justice and Delinquency Prevention Act of 1974 would appear to be essential in any strategy to reduce the nation's crime.

Because the Juvenile Justice Act represents such a promising approach to these problems, I find it particularly dis-

tressing that the President has consistently expressed opposition to its implementation. Despite the fact that he signed this act into law last September, he has, to this date, failed to nominate a director for the program and has omitted any funds for activities under the act from his fiscal budget request for 1976. I can think of few more blatant examples of false economy and misplaced priorities than the fact that, while juvenile crime in this country is costing Americans $12 billion annually, the administration continues to be steadfastly opposed to the expenditure of one red cent to reduce that loss.

The $35 million contained in today's second fiscal year 1975 supplemental bill will permit LEAA to begin to address the congressional mandate of the Juvenile Justice and Delinquency Prevention Act.

I am appreciative of the support for this measure expressed by the Appropriations Committee, especially its distinguished chairman, Senator McClellan; the distinguished chairman of the subcommittee, Senator Pastore, and committee members, Senators Hruska and Mathias.

I urge my colleagues to give the bill favorable consideration and hope that the House of Representatives will agree with our view that prevention of delinquency and efforts to curb juvenile crime demand immediate and adequate funding.

Mr. President, I ask unanimous consent that the appropriate section of the report—page 83—regarding the Juvenile Justice and Delinquency Prevention Act be printed in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

The Committee recommends $35,000,000 for the Law Enforcement Assistance Administration, an increase of $20,000,000 over the House allowance, of which $10,000,000 shall be derived by transfer of 1971–74 reversionary funds.

The Juvenile Justice and Delinquency Prevention Act of 1974 authorized $75,000,000 to implement the provisions of the new legislation. Unfortunately, the Administration has not requested an appropriation to carry out the new program. Late last year, the Law Enforcement Assistance Administration requested Committee approval to reprogram up to $20,000,000 to implement this program. This reprograming was readily approved by both Appropriations Committees of Congress. Nevertheless, the Office of Management and Budget has yet to release the funds.

The problem of Juvenile Delinquency Prevention is most serious. Almost one-half the serious crimes committed in this country are by youths under 18 years of age.

The Committee agrees with the House that because of the OMB delay with regard to the reprogramed funds, it is necessary for the Congress to reaffirm its earlier reprograming decisions by appropriating additional funds to implement the new Juvenile Delinquency legislation. In order to increase the efficient and effective expenditure of funds, the Committee has extended the availability for $25,000,000 in new budget authority until August 31, 1975. These funds would be used principally for State formula grant allocations based on population with a minimum grant of $200,000 to each State. The Committee has also included language in the bill to divert $10,000,000 in 1971–74 reversionary funds to be applied toward the implementation of the new legislation. These funds would be used primarily to accelerate the special emphasis prevention and treatment programs, provide some increased State planning, and develop the necessary administrative mechanism to insure the success of the new program. The Committee has provided that reversionary funds shall remain available until December 31, 1975, primarily to insure the stability of the development of a professional staff to administer the program and would expect the grants awarded from reversionary funds to be obligated much earlier in the fiscal year. The Committee strongly believes that a staff of at least 51 positions are required to mount the program effectively and has included sufficient funds to support such a staff.

Mr. ROTH. Mr. President, I feel that I cannot support the supplemental appropriations bill because the House version of the antibusing amendment to the bill has been gutted. It is my strongly held view that by taking this action the Members of this body have ignored completely the wishes of my constituency who wish to maintain the integrity of the neighborhood school system, who are opposed to forced busing and who do not want the Federal Government to decide where and how their children shall go to school.

It is time we in the Congress come to grips with the issue of forced busing, once and for all. If we do not take steps to stop forced busing and get on with the business of developing quality education for our youngsters our educational system in this country is going to fall into disarray and all at the expense of our children. Mr. President we in this Nation cannot afford to tamper with the future of our children by using them in a social experiment which very few black or white seem to want.

To emphasize my strong feelings about this very important matter I am voting against the entire supplemental appropriations bill. I recognize that this bill provides money for a number of good programs which I have always supported. My vote is being cast not against these programs but as a symbol of my grave concern about the heavy hand of Government in forcing its will upon our citizens—particularly as it relates to the forced busing issue.

The bill provided a rare opportunity for all of us to begin to show our concern and to take concerted action on the problem of forced busing. It is clear the Senate is not listening to the people. When the next opportunity to address this issue arises, I hope it will be more responsive. The people we represent are looking to Congress for leadership in this area. Nothing less than the future of our children is at stake.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from Hawaii (Mr. Inouye), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), and the Senator from North Carolina (Mr. Morgan) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Michigan (Mr. Griffin) and the Senator from North Carolina (Mr. Helms) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Baker) is absent on official business.

The result was announced—yeas 76, nays 14, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—76

Abourezk	Hartke	Packwood
Bartlett	Haskell	Pastore
Bayh	Hatfield	Pearson
Beall	Hathaway	Pell
Bellmon	Hollings	Percy
Biden	Hruska	Proxmire
Brooke	Huddleston	Randolph
Bumpers	Humphrey	Ribicoff
Burdick	Jackson	Schweiker
Byrd, Robert C.	Javits	Scott, Hugh
Cannon	Johnston	Sparkman
Case	Kennedy	Stafford
Chiles	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Stone
Dole	Mansfield	Symington
Domenici	Mathias	Taft
Eagleton	McClellan	Talmadge
Eastland	McGovern	Tower
Fong	Metcalf	Tunney
Ford	Mondale	Weicker
Glenn	Montoya	Williams
Gravel	Moss	Young
Hart, Gary W.	Muskie	
Hart, Philip A.	Nelson	

NAYS—14

Allen	Fannin	Roth
Brock	Garn	Scott, William L.
Buckley	Goldwater	Thurmond
Byrd, Harry F., Jr.	Hansen	
Curtis	McClure	
	Nunn	

NOT VOTING—9

Baker	Griffin	McGee
Bentsen	Helms	McIntyre
Church	Inouye	Morgan

So the bill (H.R. 5899) was passed.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections and renumber sections of the bill in the engrossment of the Senate amendments to the Second Supplemental Act 1975, H.R. 5899.

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

Mr. McCLELLAN. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed and the Presiding Officer appointed the following conferees on the part of the Senate: Mr. McClellan, Mr. Magnuson, Mr. Stennis, Mr. Pastore, Mr. Robert C. Byrd, Mr. Proxmire, Mr. Montoya, Mr. Hollings, Mr. Bayh, Mr. Chiles, Mr.

YOUNG, Mr. HRUSKA, Mr. CASE, Mr. FONG, Mr. BROOKE, and Mr. STEVENS.

H.R. 5217 HELD TEMPORARILY AT THE DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 5217, to authorize appropriations for the Coast Guard, which came over from the House today, be held at the desk temporarily.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time for the Chair to recognize the distinguished Senator from New Jersey (Mr. WILLIAMS) to present a conference report, which I understand will not take too long to be considered.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the disposition of the conference report, the Senate then turn to consideration of Calendar 105, S. 182.

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

SECURITIES ACT AMENDMENTS OF 1975—CONFERENCE REPORT

Mr. WILLIAMS. Mr. President, I submit a report of the committee of conference on S. 249, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 249) to amend the Securities Exchange Act of 1934, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

Mr. WILLIAMS. Mr. President, exactly 1 month short of 4 years ago, the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs began its study of the securities industry. Our investigation of the economics and regulation of securities trading extended over three Congresses and filled more than 17 volumes of hearings. What started as an inquiry into the causes of the paperwork crisis among securities firms during the late 1960's grew into the most thorough and far-reaching study of the operation and administration of Federal securities laws since the 1900's.

Today, we have before us the final product of the subcommittee's 4-year effort. The report of the conference on S. 249, the Securities Acts Amendments of 1975, represents omnibus securities legislation, embodying the principal conclusions of our studies and hearings and extensive deliberations. As reported by the conference, the bill has only minor changes in the version passed by the Senate on April 17, 1975—and all of the changes will improve the law, contribute to a stronger securities industry, and provide a more workable pattern of regulation.

The conference report covers a wide range of topics of great importance to both the securities industry and securities investors. Some of the major issues addressed are:

Institutional membership on stock exchanges; the fiduciary standards governing the payment of brokerage commissions; the securities holdings and transactions of large institutions; the regulation of trading of municipal securities; the creation of a national system for the clearance and settlement of securities transactions; and the establishment of a national market system.

These are large topics of great complexity. This legislation is carefully addressed to each of them to insure that in the near future, we will see not only increased services and protections available to public investors, but also a healthier, more soundly structured securities industry.

Apart from the specific topics, however, I want to call special attention to a theme which runs throughout this legislation. The securities industry, in the past, has tended to look to regulation and restraint rather than competition to govern the operation of the markets. Fixed commission rates, bars to membership, and limitations on market-making have characterized the industry. The conference report is designed to change that state of affairs. Under this legislation, regulatory constraints can be imposed only when they can be justified as necessary or appropriate to accomplish the purposes of the Securities Exchange Act of 1934.

It makes no difference whether competitive restraints result from a rule of the Securities and Exchange Commission or of a stock exchange. In either case, interference with competition must be justified. It will not be enough for the regulators to say simply, that it will be more convenient or less messy to regulate business conduct rather than to allow normal economic forces to shape developments. They will be required, under this legislation, affirmatively to justify the need for utilizing their regulatory jurisdiction to achieve a congressionally defined objective.

Unquestionably, there are areas which do, and will continue to, require effective SEC and self-regulatory oversight. This legislation recognizes this need by expanding the SEC's powers and responsibilities. But in using these regulatory powers, the SEC, the exchanges, and the NASD will be operating under a new obligation to weigh the need for regulation against the costs the regulation would impose and the interference with competition that would result.

Furthermore, to insure that the SEC acts promptly in exercising its new regulatory powers, and that brokers, dealers and self-regulatory organizations are afforded the opportunity to participate in the decisionmaking process, the legislation prescribes very definite time frames and procedures that the Commission must observe. The legislation would thus require the SEC to reach and announce final decisions and to provide adequate supporting documentation in all cases in which administration action has been requested. In the future, the SEC will not be able to place significant self-regulatory actions in administrative limbo.

A good example of these two aspects of the legislation—the required balancing of regulation and competition and the specification of time tables for SEC action—is in the treatment the conferees agreed upon for exchange rules similar to the New York Stock Exchange's rule 394. Under the conference report, the SEC would be required to study the competitive effects of such rules and report back to the Congress within 90 days. The legislation is careful not to require the SEC either to preserve any such rule or to abolish it. Rather, the Commission is directed to take appropriate action if it finds that such a rule imposes a competitive burden which cannot be justified by the purposes of the act. If the Commission does not make such a finding, it is free to take no action.

I believe it is entirely appropriate that the Commission be given this directive. The Commission has had before it, a proposed change in rule 394 for nearly 8 months. I hope that as a result of the legislation, the Commission will resolve the propriety of rule 394 promptly, in an objective and judicious manner.

Unfortunately, the press has recently reported comments from the SEC's staff and one of the Commissioners which would suggest that the issue of rule 394 has already been decided. This would be regrettable. The Commission will soon have a new statute to administer. It is being asked to review an old rule in light of that new statute. I cannot believe that the Commissioners have had an adequate opportunity to resolve the difficult issues presented by that review.

Because I view the SEC's fair administration of the securities laws to be of such great importance, I ask unanimous consent to have printed in the RECORD at this point a letter I have today sent to Chairman Garrett on the matter of rule 394.

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

U.S. SENATE,
Washington, D.C., May 19, 1975.

Hon. RAY GARRETT, Jr.,
Securities Exchange Commission,
Washington, D.C.

DEAR CHAIRMAN GARRETT: In reading the May 19, 1975 issue of *Securities Week*, I was greatly disappointed to read the following quotation: "SEC sources described the situation this way: 'To all intents and purposes, there is a fixed date for abolishing 394 in the final version—December 1. . . . Moss was saying 'Let's do it by Sept. 1' and Williams wanted a year. They settled on six months."

In addition, the May 19, 1975 edition of the Wall Street Letter states: "SEC Commissioner, John Evans, for one, said "I've said all along that 394 will probably be eliminated one way or another by competition or by the SEC. I feel there is a lot of sympathy around the Commission for getting rid of it, but I cannot speak for all of the

commissioners. Under the legislation we will take a fair objective look at 394. But I think it will be hard to find reasons to keep it."

As you may know, the Conference Report on S.249 directs the Commission to review all exchange rules which limit or condition the ability of members to effect transactions in securities other than on such exchanges.

The Commission is directed to review such rules and report to the Congress 90 days after the enactment of the Securities Acts Amendment of 1975 as to the results of its review and to amend any exchange rules which impose a burden on competition and which do not appear necessary or appropriate to achieve the purposes of the Securities Exchange Act. Nowhere in the legislation is there an absolute Congressional mandate that the Commission repeal New York Stock Exchange Rule 394. The Commission may, if it finds the rule necessary to make the Exchange Act work countenance the continuation of Rule 394 even if it finds such rule to be anti-competitive. On the other hand, it may alter the rule in order to bring it into compliance with the new competitive standards set forth in the Securities Act Amendments of 1975 or it may abrogate the rule in its entirety. This decision is left to the Commission after making a 90-day study during which it takes into consideration the new legislative standards contained in S.249.

In my opinion, the statements attributed to your staff and to Mr. Evans are most ill-advised. The provisions pertaining to Rule 394 which are contained in this legislation are not now contained in the 34 Act, thus, necessitating a fresh, unbiased Commission review of Rule 394. The Commission in conducting its review and, if it in fact recommends new rule changes, would be acting as a quasi-legislative body.

Therefore, I feel most strongly that the above-mentioned remarks by a member of the Commission and by an unnamed member of your staff detracts from the objective review which the Congress intended in adopting this provision of S.249. It also detracts from the atmosphere of judicious propriety and unbiased rule making which we all have the right to expect from an independent regulatory agency such as the SEC.

With every good wish, I am
Sincerely,

HARRISON A. WILLIAMS, Jr.

Mr. WILLIAMS. Mr. President, the conference report before us is the result of a cooperative effort by the Congress and the securities industry to fashion more effective laws to govern our securities markets. I want to note especially the fine help and constructive suggestions we have had from both the Securities Industry Association and the New York Stock Exchange. These organizations, as well as many other organizations and individuals in the industry have taken a forward looking approach to the needs of the investing public. They have worked long and hard with us to conceive and draft workable, effective legislation. Without their help, and especially the help of the principal officers of these organizations, the bill before us today would be far less satisfactory than it is.

I would also like to thank the cosponsors of this bill, Senators TOWER and BROOKE and the chairman of our full committee, Senator PROXMIRE, for their major contributions to the development and passage of this legislation. Our securities bills have been bipartison, and I am extremely pleased that the final product remains in that tradition.

The conference report is reform legislation in the very best sense. I urge that the Senate accept it so that it may be enacted into law at the earliest possible date.

LANDMARK SECURITIES BILL

Mr. PROXMIRE. Mr. President, the securities markets of the United States are both the symbolic and actual bedrock of our free enterprise system. Open and public markets have made possible the mobilization and allocation of vast amounts of capital for corporate America. By attracting the participation of the small investor, they have allowed millions of Americans to share in the profits of our free enterprise system.

It is evident from developments in recent years, however, that both the securities industry and the securities markets have experienced profound and painful changes. It was only 4 years ago, as I recall, that the Senate met to consider 11th hour legislation to insure investors against loss from brokerage house insolvencies and avert a near crisis in investor confidence. That near crisis jolted public confidence—it also served to alert the Congress to the serious conditions which existed in the securities markets and the securities industry, and the broader implications for our economy.

It was clear then, and it is now, that our securities markets are in need of fundamental reform if they are to continue generating the capital our Nation needs to retain its economic health. As a prelude to reform, the Senate in 1971 authorized the Subcommittee on Securities to conduct the most extensive reexamination of the competitive, legal and regulatory underpinnings of our securities in four decades.

During the course of that study, and for the consideration of the predecessors to the bill before us today, I was privileged to serve on that subcommittee under the able chairmanship of Senator WILLIAMS. My knowledge of the bill and my appreciation for the enormous credit due to Senator WILLIAMS and the other members of the subcommittee is, therefore, firsthand.

Mr. President, there are essentially three groups with important stakes in the maintenance of efficient equity markets: the individual investor who channels surplus savings into stock investments; the broker/dealer community; and the corporations who rely on healthy securities markets for the raising of equity capital. Past conditions have caused uncertainty or misapprehension by all of these groups about the viability and future of our capital markets which we can ill-afford. By creating a national market system, rationalizing the basic regulatory framework, broadening disclosure and freeing the natural forces of competition, S. 249 contains promise and opportunity for each of these groups.

In approaching reform in the regulation and mechanisms of the secondary trading markets, S. 249 relies on a precept that has long served this country well—competition. The bill would invigorate the limited competition that has historically existed in the securities markets. Moreover, it will elevate competition as a principal factor in the entire securities trading and regulatory process. In the emerging national market system, S. 249 will insure that competition can play its role in maintaining the integrity of the trading markets, the quality of services and products offered to the investing public, and the capability of the markets to discharge their essential functions in the most economically efficient way.

Indeed, the foundation for the national market system outlined broadly in the bill is a competitive network of securities markets and securities firms linked electronically by advanced communications systems. The end result will be the improved, nationwide dissemination of vital market information and maximum opportunity for an investor—whether located in Milwaukee or Manhattan—to get prompt and efficient executions of his orders.

Two principal beneficiaries of this bill will be small investors and regional brokers and dealers. They have long been a mainstay of our capital raising process, but the institutional investor phenomenon, among other factors, has served to downplay and discourage their full participation in recent years.

The new market system for trading securities that will be facilitated by the bill—the national market system—will be truly nationwide in its scope. It will not be centered in New York; nor will it be located in Chicago or Los Angeles. Instead, it will be an electronics network that blankets the Nation. Through this communications network investors, wherever located, will have immediate access through their brokers to essential price and quote information and to the markets. Unfortunately, when the system is fully established, purchases or sales will occur wherever the best price can be found.

A broker will be able to determine, quickly and efficiently, where the system the best price is obtainable. For the small investor, this means that he will be placed on equal footing with large investors and receive the full benefit of the interplay of competitive forces in deep and liquid, fair and orderly markets.

For brokers and dealers with regional orientations, the bill offers similar promise. The securities industry is a vast and heterogeneous mix of diversified businesses. Some brokerage houses serve only selective institutional clients; others—such as national wire houses—offer a full range of services to individuals and institutional customers. And there are so-called "regional houses" which are generally identified with a particular geographic region and usually found far away from metropolitan centers. In my judgment, they are among the most vital components in the financial industry because they serve as financial conduits for countless millions of small investors who have long been ignored.

Concern has been expressed that regional firms may not survive the advent of greater competition as conceived in S. 249. But I believe, based on past performance as demonstrated in the course of the Study, that regional firms will not only survive, they will prosper as the small investor returns to the equity markets.

Mr. President, the Securities Acts

Amendments of 1975 is a landmark bill that will shape the future structure of our securities markets for decades to come. It holds the key to more efficient and better coordinated securities markets and the full realization of the pattern of investor protection created by the Congress in 1934. Mr. President, I am pleased to have been associated with the study and, as the chairman of the Banking Committee, proud to urge its prompt passage and swift enactment.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that printing of the report be waived.

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

Mr. WILLIAMS. Mr. President, I move that the conference report be agreed to.

The motion was agreed to.

REINSTATEMENT OF ALEXANDER P. BUTTERFIELD

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 182, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 182) to authorize the appointment of Alexander P. Butterfield to the retired list of the Regular Air Force, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Armed Services with amendments: on page 1, in line 7, strike the word "prerequisites," and insert the word "perquisites,"; in line 10, strike "February 7, 1973" and insert "February 1, 1969"; and on page 2, beginning with line 4, strike out the following:

SEC. 2. The effective date of the appointment authorized by this Act is the day after Alexander P. Butterfield ceases to hold office as Administrator of the Federal Aviation Agency, or the day before his death, whichever is earlier;

So as to make the bill read as follows:

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That, notwithstanding any other provision of law, the President alone is authorized to appoint Alexander P. Butterfield, formerly a retired colonel, United States Air Force, to the grade of colonel on the retired list of the Regular Air Force, with the pay, allowances, emoluments, perquisites, rights, privileges, and benefits of an officer of his grade and length of service who was on that retired list on February 1, 1969. No pay, allowances, or other benefits shall become due as a result of the enactment of this Act for any period before the effective date of the appointment of the said Alexander P. Butterfield under this Act.

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from Nevada (Mr. CANNON) and the Senator from Iowa (Mr. CULVER) with 30 minutes on any amendment and 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. CULVER. Mr. President, at this time I ask unanimous consent to have the yeas and nays on final passage of S. 182.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CULVER. I ask unanimous consent that Charles Stevenson, of my staff, be accorded the privilege of the floor during the consideration of S. 182.

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

Who yields time?

Mr. CANNON. Mr. President, first, I ask unanimous consent that Frank Krebs, of my staff, be permitted to be on the floor during action on this measure.

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

Mr. CANNON. Mr. President, I yield 2 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to support S. 182, a bill reported favorably by the Committee on Armed Services to provide reinstatement of military status to Alexander P. Butterfield.

Upon Mr. Butterfield's appointment as Administrator of the Federal Aviation Administration, he resigned his commission as a colonel in the Air Force on the retired list. This bill would merely enable the President to restore Mr. Butterfield to his retired status in the Air Force.

Mr. President, on two previous occasions, Congress has passed special legislation of this type. Both bills related to former Administrators of the FAA and the individuals concerned were Gens. Elwood D. Quesada and William F. McKee.

It is my feeling that Mr. Butterfield undertook substantial personal sacrifice to accept the position of FAA Administrator. Now that he has completed his duties, it seems fair to me that he be returned to the status he originally held, as he had legitimately earned his military retirement through 20 years' service in the Air Force. It would not be proper to deny him the original appointment simply because he had served in the military, nor would it be proper to deny him a return to that status after having completed his duties.

Mr. President, in conclusion, I note that the Department of the Air Force poses no objection to this legislation and it had the support of the majority of the members of the Senate Committee on Armed Services. I urge the Senate to approve this bill as reported.

Mr. GARY W. HART. Mr. President, will the Senator yield?

Mr. CANNON. I yield 1 minute to the Senator from Colorado.

Mr. GARY W. HART. Mr. President, I ask unanimous consent that Ed Miller of my staff be accorded floor privileges during consideration of and the vote on S. 182.

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

Mr. CANNON. Mr. President, I yield myself 10 minutes.

The bill is intended to restore Alexander P. Butterfield to his retired status in the Air Force. Mr. Butterfield resigned his commission in order to meet the eligibility requirements that the Administrator of the Federal Aviation Administration be a civilian at the time of his nomination. The bill would authorize the President to appoint Mr. Butterfield to the grade of colonel on the retired list of the Regular Air Force with pay and other benefits based on a retirement date of February 1, 1969.

There is no authority under existing law to place a person who is not a Regular or Reserve member of the Air Force on the retired list of the Air Force. Since Mr. Butterfield is not presently a Regular or Reserve member of the Air Force, special statutory authority is necessary for him to be appointed to the retired list of the Regular Air Force.

On January 4, 1973, President Nixon submitted the nomination of Alexander P. Butterfield to be Administrator of the Federal Aviation Administration.

Section 301(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1341(b)) (72 Stat. 744), sets forth the qualifications of the FAA Administrator, including, among other things, "At the time of his nomination he shall be a civilian. . . ." In regard to this section the conference report of the Federal Aviation Act of 1958 stated:

The requirement in Section 301(b) that the Administrator be a civilian at the time of his nomination means that he shall be a civilian in the strictest sense of the word. Thus, at the time he is nominated he may not be on the active or retired list of any regular component of the Armed Services. . . . (House Conference Report No. 2556, 85th Congress)

When his nomination was submitted, Mr. Butterfield held the rank of colonel in the U.S. Air Force, retired. Hence, his nomination clearly conflicted with section 301(b) and he was ineligible to be nominated for Administrator of the FAA. Mr. Butterfield's nomination was subsequently withdrawn.

On February 1, 1969, Mr. Butterfield resigned from the U.S. Air Force and thereby gave up all pay, privileges, and obligations associated with retired status in the Regular Air Force. On February 26, 1973, Mr. Butterfield's nomination was resubmitted to the Senate. His nomination was reported favorably by the Commerce Committee and was confirmed by the Senate on March 9, 1973.

On at least two previous occasions the Congress has passed special legislation bearing on an individual's compliance with section 301(b) of the Federal Aviation Act.

Elwood R. Quesada was nominated to be the first Administrator of the FAA on January 17, 1959. In order to comply with the requirements of section 301(b), he had to resign his commission as a lieutenant general in the U.S. Air Force, retired. On September 16, 1959, and while Mr. Quesada was still serving as the Administrator for the FAA, Congress passed Private Law 86–177 (73 Stat. A–77) to authorize the President to reappoint Mr. Quesada to his previous status as lieutenant general in the Air Force, retired. This reinstatement to military retired status was to become effective upon Mr. Quesada's departure as Administrator of the FAA or upon his death whichever came first.

On April 29, 1965, Gen. William F. McKee, U.S. Air Force, retired, was nominated to become Administrator of the FAA. Because of his status as a U.S. Air Force general, retired, General McKee

was ineligible to be nominated as Administrator of the FAA by section 301 (b). On June 22, 1965 Congress passed Public Law 89-46 (80 Stat. 171) to authorize the President to appoint General McKee Administrator of the FAA and to authorize General McKee to retain the rank, grade, and emoluments of his retired military status while holding the office of Administrator. The effect of this legislation was to nullify the "civilian" requirement of section 301(b).

It should be emphasized that Mr. Butterfield's ultimate nomination and tenure as Administrator of the FAA fully complied with the terms and spirit of section 301(b). Mr. Butterfield completely severed his ties with the military prior to his nomination and was a civilian in "the strictest sense". While FAA Administrator, he was not subject to military authority. Moreover, a potential conflict of interest in carrying out his duties as FAA Administrator was removed because he had no connection with the military. Thus Mr. Butterfield's nomination and confirmation were fully consistent with the congressional intent of section 301(b).

In resigning his military commission to become Administrator of the FAA. Mr. Butterfield undertook a substantial sacrifice in terms of personal pay, security, and perquisites. He had legitimately qualified for military retirement through his 20 years of service in the Air Force. He gave up retired status in order to serve as FAA Administrator. This sacrifice continued throughout his tenure as FAA Administrator. The committee felt it only fair that upon termination of his service as FAA Administrator Mr. Butterfield should again receive the benefits which he justly deserved.

In a closely analogous situation, the Congress decided that General Quesada should be reinstated to his retired military status upon termination of his tenure as FAA Administrator. While the legislation for General Quesada—Public Law 86-177—was limited to an individual case, the circumstances in that case are no less compelling than in the Butterfield case.

Dealing with Mr. Butterfield on an individual basis represents an appropriate congressional remedy to his situation. People who are willing and qualified to assume key posts in the U.S. Government should not be forced to incur an additional personal sacrifice simply because they served as members of the U.S. Armed Forces. To deny such people their retired status on a permanent basis would be an undesirable obstacle to attracting the most qualified people into Government service. At the same time it may be unwise as a general policy to reinstate automatically retired military status to anyone who resigned such status to serve in the U.S. Government. A case-by-case approach in which the Congress evaluates the circumstances and equities of an individual's situation would seem to be preferable. This bill to reinstate the retired military status of Mr. Butterfield is in keeping with such a policy.

Enactment of this proposal will cause no additional increase in the budgetary requirements of the Department of Defense, and the Department of the Air Force interposes no objection to enactment of this legislation as set forth in the letter from the Department of the Air Force to Senator STENNIS, dated March 11, 1975.

Mr. President, I ask unanimous consent that the letter to which I have made reference be printed in the RECORD.

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

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, March 11, 1975.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate.

DEAR MR. CHAIRMAN: This letter is in request for the views of the Department of the Air Force with respect to S. 182, 94th Congress, a bill "To authorize the appointment of Alexander P. Butterfield to the retired list of the Regular Air Force, and for other purposes."

The purpose of S. 182 is to restore Alexander P. Butterfield, former Colonel, United States Air Force (Retired), to his former status on the retired list of the Regular Air Force with the retired pay and other benefits to which he would have been entitled had he not resigned to accept appointment as Administrator of the Federal Aviation Administration (FAA). Restoration of retired pay and entitlement to other applicable benefits will not be effective until the day after he ceases to hold the office as Administrator of the FAA or the day before his death, whichever is earlier, and will not be retroactive for the period he served as Administrator.

The proposed legislation is not without precedent, since similar action was previously taken in the case of at least one other Regular Air Force retired officer who was also required to resign his commission to accept appointment as Administrator of the Federal Aviation Administration, and who was later reappointed to the retired list. Such resignation is required because of the specific provision in section 301(b) of the Federal Aviation Act of 1958 (49 USC 1341(b) that the Administrator must be a "civilian". Under existing law, the military departments are without authority to reappoint former retired officers to their former status on the retired list under Mr. Butterfield's circumstances. Therefore, enactment of S. 182 is necessary in order to afford fair and equitable treatment to him.

Under current law (10 U.S.C. 1401, 1401a, and 8991), military retired pay is computed based on the applicable rates of basic pay at time of retirement, plus authorized cost of living increases. Mr. Butterfield was originally retired on February 1, 1969, and resigned on February 8, 1973. The reference in S. 182 to "February 7, 1973," the day before Mr. Butterfield's resignation, might possibly be construed to authorize resumption of his retired pay based on the rates in effect on that date, plus authorized cost of living increases, Such a construction would place him in a higher retired pay bracket than his contemporaries, who were initially retired on February 1, 1969. While we concur in legislation which would restore Mr. Butterfield to his former military status with all the benefits he had acquired as the result of his military service, we do not believe that any advantage should accrue to him by reason of his resignation or reappointment. Accordingly, it is recommended that the reference in S. 182 to "February 7, 1973" be changed to "February 1, 1969" to make clear what we believe is the intent of this bill. It is also recommended that the word "prerequisite" be changed to "perquisites" and that the reference to the "Federal Aviation Agency" be changed to "Federal Aviation Administration" to reflect the correct name. With these changes, the Department of the Air Force recommends enactment of S. 182.

Enactment of this bill will cause no apparent increase in budgetary requirements of the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

DAVID P. TAYLOR,
Assistant Secretary of the Air Force, Manpower and Reserve Affairs.

Mr. HARTKE. Mr. President, will the Senator yield for a question?

Mr. CANNON. Yes, certainly.

Mr. HARTKE. Is the intention of this to reestablish for Mr. Butterfield all of his rights again as a retired officer?

Mr. CANNON. Yes. The intent is to establish all of his rights which he gave up at the time he resigned his commission.

Mr. HARTKE. Is that including pension and military benefits, totally, across the board?

Mr. CANNON. That is correct, all of his military benefits. It would not restore him to active duty. He was on the retired list. He had accrued his retirement benefits as a result of 20 years service in the military. It would restore him to the status that he had at the time he resigned.

Mr. HARTKE. Does the Senator not realize that this is a direct contravention of the established policy of Congress that military people should not be placed in these positions? We have done it with Quesada. We did it with McKee. Now we are doing it with Butterfield. In other words, why not repeal the whole act and get rid of it, if you want to stop going through the subterfuge?

Mr. CANNON. The purpose of having that in the act was so that a man would not be worried about his personal status and about having another master at the time he was directing the FAA, because some of the situations that arise might be a conflict between the military and civilian aviation authorities.

The Senator did point out that we did cover that in the Quesada case, and we covered that in the McKee case.

I point out that we recognized the benefit that military people can perform for the benefit of the Federal Government in the case of President Eisenhower, and we reinstated President Eisenhower to his previous benefits after he had served as President of these United States because we wanted to have him restored to the status that he was in at the time that he took over that position.

Mr. HARTKE. There is no constitutional provision or no legislative provision which says a President of the United States shall not have been or be a military man.

But there is a definitive legislative statement in the creation of the FAA Act that says that the appointee shall not be a military man under any circumstances and that if he is one he cannot hold that status. If all the Senator is do-

ing is taking away from him temporarily, what the Senator has done is really a subterfuge.

I opposed the McKee nomination on the same grounds. I would oppose this nomination on similar grounds.

But I cannot understand. We should do two things. We ought to just go ahead, abolish the act, repeal it outright, and be fair with these people; and we ought not mislead ourselves any more about the fact that we are really going to have nonmilitary control of the FAA.

Besides, this man's reputation, there is certainly one which was not admirable. The whole D.C. 10 incident can be laid at his doorstep, as the Senator from Nevada well knows.

The fact of the matter is that if he had warned those manufacturers at the time, those people would be alive today. But instead of doing that he sent out a directive which was much less effect than an absolute warning. I would hope that we would reject this legislation.

Senator PEARSON and I opposed the McKee nomination on the same grounds at the same time, and if we are going to do this, let us just be fair with all the military people and say:

Go ahead and apply for these jobs because it does not make any difference. We will reinstate you after it is all over anyway.

Mr. CANNON. Well, Mr. President, I would simply say I was not the one who selected him for the nomination. That was the President of the United States. But I think, in all fairness, this man had accrued benefits at that time, benefits that he would have been entitled to for the rest of his life had he not elected to serve his Government in the position that the President of the United States asked him to serve.

So I say, in all fairness, he ought to be reinstated and, therefore, I am sponsoring that position on the floor.

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

Mr. CANNON. I was not really responding to a question before. I would rather have a Senator use up some of the other time.

Mr. CULVER. I yield some time.

Mr. HARTKE. Did not Mr. Butterfield know this at the time he went in?

Mr. CANNON. No, as a matter of fact, he did not. The minority report indicates he did know that, and I have been advised he did not. He did not find it out until after his name had been sent up in nomination. That placed him in a rather embarrassing position if he would have said, "Well, I won't take the job unless you do this."

Mr. HARTKE. In other words, he sacrificed it. If he were in that position at that time before he accepted the nomination, before he was confirmed, he was fully aware of the fact that he knew that he did not have any of these benefits left to him; is that not right?

Mr. CANNON. Yes. Before he was confirmed, yes. But not at the time he accepted and his name was sent up in nomination.

Mr. HARTKE. Yes.

Did he not say at that time he understood the McKee situation was water under the dam, in substance, saying he understood he was taking it with a waiver of these rights?

Mr. CANNON. That is correct.

The PRESIDING OFFICER. The Senator from Indiana has 1 minute remaining.

Mr. HARTKE. I had 1 minute to start out with. [Laughter.]

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. CANNON. Mr. President, I reserve the remainder of my time.

Mr. STENNIS. Mr. President, will the Senator yield to me on the time allowed to the Senator from Nevada so that I may just state my position?

Mr. CULVER. Yes.

The PRESIDING OFFICER (Mr. CASE). Without objection, the Senator yields to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I shall be quite brief. I certainly want to thank the Senator for yielding to me at this time.

Mr. President, I was not attending the sessions of the Senate when Mr. Butterfield was confirmed on March 1, 1973, but I was here when General Quesada was confirmed and also General McKee.

In those two instances, each of them came as near as anything I have seen around here to the position seeking the man.

This is a very difficult office to fill. General Quesada was very outstanding, I think, almost by unanimous consent. General McKee was one of the most forceful and effective men I have ever known, and they were brought in for this position and did an excellent job and, in that way, why the exception was made. Congress returned them to their original position.

The law may be defective. Those two might have been a mistake, but what Congress did about them certainly impresses me and, it seems to me, that as long as we are operating under the current law we will have to treat these men alike. This man served satisfactorily. I am not personally familiar with his service—but I am sure—I have never had a showing of anything to the contrary—his services were satisfactory. So that is the spirit which prompts me to approve this man.

I asked the Senator from Nevada to handle the matter and, in his usual fine way, he delved into it fully, and I hope that the Senate will see fit to pass this bill in fairness and in deference to this man who served as Director of the FAA.

If we want to change the law that is an altogether different matter. Wherever a bill, an introduced bill, along that line goes, I am sure it will get consideration of Congress, including this Member.

Again I thank the Senator for yielding to me.

Mr. CULVER. Mr. President, I ask unanimous consent that the dissenting views which the distinguished Senator from Colorado (Mr. GARY W. HART) and I filed with the committee report on this bill be printed in the RECORD at this point.

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

DISSENTING VIEWS

The action proposed by a majority of our colleagues in supporting this bill has ramifications which go well beyond the restoration of retirement, health, and other benefits to Alexander P. Butterfield. It represents a continuing erosion of respect for the deep-rooted and essential principle of separation between military and civilian authority. And, even more seriously, it represents an abdication of responsibility for maintaining that principle by the one committee which, more than any other, should be exercising particular vigilance to uphold it. Citation of exceptional precedents does not furnish a basis for deviation from this bedrock principle in this case.

Let us look at the record. In 1958 the Congress chose to combine in one agency, now the Federal Aviation Administration, regulatory authority with respect to air traffic operations that had theretofore been exercised separately by military and civilian agencies. This meant that the airspace needs and interests of the military, which might frequently conflict with those of commercial and private aviation, would be settled "in house" by a single authority. Congress was most insistent that this authority should be unmistakably civilian, and went to great pains to avoid any possibility of military control or influence over FAA decisions. Thus, Section 302(c) of the Act provided for the participation of military personnel in FAA activities, to aid the Administrator with respect to "regulation and protection of air traffic, including provision of air navigation facilities, and research and development with respect thereto, and the allocation of airspace" but "no (military) person so detailed or appointed shall be subject to direction by or control by the department from which detailed or appointed or by any agency or officer thereof directly or indirectly with respect to his responsibilities under this Act or within the Agency."

The Administrator, a civilian, was to be solely in charge. This was expressly stated in Section 301(b) and reinforced in Section 302 (b)—which provided that if the Administrator had at any previous time been a regular officer in any one of the armed forces, then the Deputy Administrator must be someone who has never served as a regular military officer. In any event, the Administrator himself at the time of nomination must have severed any remaining ties he has held with the military. He must be, as the majority acknowledges, "a civilian in the strictest sense of the word." It is the failure of strict adherence to that commitment that is so very troublesome in this case.

The majority say that the letter of the law was observed when Mr. Butterfield, before his nomination as Administrator, resigned his commission as colonel on the retired list of the Regular Air Force. They further point to two precedents for reinstating Mr. Butterfield to that list now that his FAA service has been ended; and they claim that such action would be wholly consistent with the intent of the law to prevent undue military influence from affecting the decisions of the Administrator. It is instructive, accordingly, to examine those precedents and their implications.

THE QUESADA CASE

In 1959, just one year after passage of the FAA Act, Congress adopted a private bill similar to S. 182 to authorize the reappointment of Elwood R. Quesada, the first Administrator, to his former status with the Regular Air Force when he resigned from the FAA. This was, however, in all respects a unique case. Mr. Quesada had served as Special Assistant to the President for aviation matters and, as the Secretary of the Air Force pointed out in a letter to this Committee, had been responsible for putting together the FAA legislation. No one was as qualified as he to be the first head of the new agency. Thus his resignation from the Air Force, as Secretary Douglas put it, "represents a sacrifice which, in this case, it is felt the Congress did not intend."

The Armed Services Committee agreed with that judgment, but not before going to considerable lengths—all recorded in the 1959 hearings—to assure itself that the Quesada case would not be taken as a precedent for similar action in the future.[1] It is therefore quite improper, in our judgment, for the Committee now to cite the Quesada case as a controlling precedent for the present action.

THE M'KEE CASE

In 1965, Congress passed a private bill authorizing the President to appoint William F. McKee, a retired four-star general from the Regular Air Force, as Administrator of the FAA without resigning the rank, grade or emoluments of his retired military status. Congress in effect waived entirely the application of Section 301(b) of the Act to General McKee. In this and in several other vital respects the action of the 1965 Congress is clearly distinguishable from the action now being proposed to the 1975 Congress.

First, of course, the originating committee for the McKee bill was not the Armed Services Committee but the Committee on Commerce. That committee acquiesced in the special dispensation requested of it by President Johnson, on the ground that General McKee had acquired specially relevant expertise in a civilian capacity with NASA after returning from active military duty (while continuing to draw both civilian and military pay, which he was evidently unwilling to give up). But the committee went out of its way to express grave reservations about the propriety of what it was being asked to do:

"Aside from questions relating to compensation, the majority of the members of the committee have grave reservations concerning what appears to be an increasing tendency to fill civilian government positions with retired military personnel. . . . *This matter should be thoroughly reviewed by the appropriate committees* of Congress."[2]

To document and buttress its concern, the Committee further quoted relevant extracts from a previous report it had prepared five years earlier on the subject:

". . . We believe it necessary to express some substantial doubts on the wisdom of repeated appointments of retired military officers to high civilian positions, particularly in the administrative and regulatory agencies. . . .

"However, an appointment to an agency is not an honorarium for services performed in the past. Rather, such an appointment should be based on expected future performance in the highly sensitive area of balancing and adjusting competitive forces in the public interest.

"Furthermore, and perhaps most important, one of the basic principles in our society is that the control of government, including the policymaking function, should be vested in civilians with the military subordinate. Continued appointments of career officers could destroy the symbol of civilian government as well as promote the unfortunate practical effects associated with almost dominant military influence.

"There may, of course, be occasion when the particular job or the capabilities of the man indicate the desirability of appointment of a professional military man. *But this should be the unusual rather than the usual.*"[3]

In fact the McKee decision was expressly based on an "unusual" precedent cited to the committee by President Johnson; namely, the 1950 legislation enacted by Congress to authorize General of the Army George C. Marshall to serve as Secretary of Defense. George Marshall was of course a widely revered and trusted public servant of demonstrated probity and breadth of vision, who had already served with distinction as Secretary of State (and had authored the famous "Marshall Plan" that bore his name). Nevertheless, the record shows that when this Armed Services Committee approved his designation as Secretary of Defense, it wrote in the following extraordinary proviso:

"SEC. 3. It is hereby expressed as the intent of the Congress that the authority granted by this Act is not to be construed as approval by the Congress of continuing appointments of military men to the office of Secretary of Defense in the future. It is hereby expressed as the sense of the Congress that after General Marshall leaves the Office of Secretary of Defense, no additional appointments of military men to that office shall be approved."[4]

It was on that basis and with that understanding that the McKee legislation was approved; and, significantly, there have been no subsequent efforts to push through advance-waiver legislation of the McKee type since 1965.

THE BUTTERFIELD CASE

The record shows that Alexander Butterfield was well aware of the actions and reservations of the Congress with respect to Section 301(b) of the FAA Act when he consented to having his name placed in nomination. As it happens, the sponsor of the present bill was presiding over Mr. Butterfield's confirmation hearings in the Committee on Commerce, and he elicited from the nominee an admission that Mr. Butterfield had explored the prospects of obtaining McKee-type legislation only to learn that there was little prospect of its approval. Mr. Butterfield then forthrightly stated:

"The issue is now water under the bridge. It should be forgotten."[5]

It is true that Senator Cotton, at a later point in the hearings, told the nominee that he was "reasonably confident that Quesada treatment would be forthcoming."[6] But this individual observation cannot be taken as a commitment of the Congress. Furthermore, a contrary reading would put Mr. Butterfield and any like him who succeed to the position of FAA Administrator in the most untenable posture conceivable insofar as the intent of Congress is concerned.

To see why this is so, we need only compare the status while in office of General McKee and that of Alexander Butterfield. McKee was secure in his dual position as a civilian administrator with retired military pay and benefits. There was nothing the Air Force could do to withhold or diminish his emoluments, and therefore no need or incentive for him to curry any favor from the Air Force while he was Administrator. His independence in this regard was further buttressed by Section 2 of his private bill (adapted *in toto* from the earlier Marshall legislation):

"In the performance of his duties as Administrator of the Federal Aviation Agency, General McKee shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the Regular Air Force."

Mr. Butterfield was of course nominally a civilian, at the time of his appointment, so no special statutory safeguards of this sort were provided for him. But what realistically was his position, if he hoped—as he had been encouraged to do—that "Quesada treatment" might be available to him upon completion of his service as Administrator? Would he not need the continuing good will of the Air Force to support private legislation on his behalf, as indeed that service has done by letter to the Committee in this case? Even if the legislation were passed while he was still in office (which in fact is how it was originally drafted), all it would do is *authorize* his reappointment to the retired list; would not the good favor of the Air Force still be needed to persuade the President to exercise the reappointment authority?

To ask these questions is not to impugn the personal integrity or honorable intentions of Mr. Butterfield any more than that of General McKee or General Quesada. The character or performance of Mr. Butterfield is not at issue. These are institutional, not personal questions.

Congress has said in Section 301(b) that it wants a strictly independent civilian Administrator of the FAA. If the present bill is passed, however, that will be a dead letter. The majority protests against this interpretation, with the claim that it is proceeding on a "case-by-case" policy. Yet candor must compel acknowledgement that: (1) There have been only five FAA Administrators since the FAA Act was adopted; (2) of these, only three were affiliated with the armed services at the time of their selection by the President; and (3) if the Butterfield bill passes, *all three cases* will have been decided the same way—in defiance of the purpose and intent of Section 301(b).

There are no special circumstances justifying that sort of action in this case. No one claims that Mr. Butterfield was uniquely qualified among all other possible candidates for the post he accepted, or that no one else could be found to take the job, or that he imposed as a precondition to acceptance of his office a Congressional commitment that military pay and benefits would be restored. In short, if Mr. Butterfield can qualify for restoration of what he himself freely chose to relinquish, then so can anyone else and Section 301(b) is dead.

WHAT IS AT STAKE

This issue does not arise in a vacuum. There has long been concern, as manifested in the reports previously cited by the Committee on Commerce among others, about excessive appointments of retired military officers to high civilian positions. Recently, there has been heightened concern about active duty officers switching to policy positions of the highest civilian significance and then resuming their military careers with important and highly visible assignments. What was said ten years ago has acquired added urgency and importance now: "This matter should be thoroughly reviewed by the appropriate committees of Congress."

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[1] Hearings on S. 2500, before the Senate Armed Services Committee, August 13, 1950, p. 18:

Chairman RUSSELL. Any further questions of Senator Monroney (the bill's sponsor)?

Senator STENNIS. I would just like to ask this question, if I may. You have the bill drawn in such a way now that it will be a precedent only—in other words, it is limited to this gentleman by name?

Senator MONRONEY. Yes, sir; I think that is absolutely necessary.

Senator STENNIS. But your purpose isn't to set any general precedent on this practice?

Senator MONRONEY. No, sir; I don't think it should be. The fact of the matter is, we wanted a civilian but the nearest thing to a civilian we could get at that point who had the necessary knowledge of the job was a military officer who had resigned his commission. . . .

* * * * *

Chairman RUSSELL. I have always thought it was well to avoid setting any precedent to have the name of the officer included in the bill to show it was done just in that case.

[2] S. Rep. No. 271, 271, 89th Cong., 1st Sess., June 1, 1965, p. 5. (Emphasis added.)

[3] *Ibid*, p. 4. (Emphasis added.)

[4] *Ibid*, Appendix A.

[5] Hearings on the Nomination of Alexander P. Butterfield before the Senate Committee on Commerce, March 1, 1973, pp. 57–58. (Committee Print.)

[6] *Ibid*., p. 63.

The place to start is in this Armed Services Committee, and the time to call a stop to recent trends is now.

S. 182 does injury to one of the most fundamental operating principles in our Government—the separation between military and civilian authority. This separation, which is grounded in the Constitution, is deliberately designed to promote the highest professionalism in the military while at the same time keeping the military under civilian control and removed from the formulation of public policy. There has been a growing and disturbing tendency for this separation to become increasingly obscured. The weakening of this vital distinction tends to undermine professional military morale and implies that advancement in the military service is based on considerations other than military professionalism. In addition, it risks involving the military in controversies over unpopular policies which are properly the domain of the civilian political process and the responsibility of its officeholders.

These are fundamental concerns, springing from basic principles which can no longer be honored solely in the breach. S. 182 may seem a fortuitous occasion on which to take a stand—but without some beginning there can be no end.

We oppose passage of S. 182.

JOHN CULVER.
GARY HART.

Mr. CULVER. I thank the distinguished chairman.

This is a matter of principles, not personalities. In taking this strong stand against the reinstatement of retired military status to Mr. Butterfield, I have absolutely no prejudice against Mr. Butterfield personally. His career elsewhere in Government; his identification in the public mind with the recent administration are irrelevant to the issue under consideration.

We are talking about a statute enacted to prevent potential conflict of interest. We are talking about a constitutional principle as old as the Republic.

The constitutional principle is the scrupulous separation of civilian and military functions in our democratic system.

The legal principle involved is whether the law requiring the FAA Administrator to be a civilian should be upheld or flaunted by making an exception of a case that does not qualify for exceptional status.

The central question is when does a "special case" become a precedent that has the effect of undermining the law?

If we are to make revolving door exceptions in repeated cases that do not have unique justification; then we are, in effect, repealing the law.

Considering the fact that there is no moral issue against Mr. Butterfield, it may seem that fighting his reinstatement to retired military status is making a mountain out of a molehill. What harm can the restoration of one man's military status and perquisites do?

I submit that the constitutional principle at stake—the preservation of civilian control of our Government—is no small one. It is an integral part of the foundation of our Democratic system.

This principle is clearly challenged by the accommodation of Mr. Butterfield's desires by special legislation in this case.

The law states that the Administrator of the FAA shall be a civilian. The legislative intent, from the time of the creation of the FAA, comes through clearly as construing "civilian" in the strictest sense of the world.

Mr. Butterfield understood—and this is plainly on the record—that when he agreed to divest hin self of his military commission and perquisites that this was a permanent move.

This is the way the record must be interpreted unless there was some understanding between the lines that Mr. Butterfield's wishes would be taken care of by making yet another exception to the law.

This is what is so disturbing. Can an individual administer as a civilian an important agency such as the FAA which has jurisdiction in both civilian and military areas if he lives in hope that when his civilian tour of duty is over he will be permitted to resume his military status?

The purpose of the law is to avoid crises of potential conflict of interest situations before they materialize. If every appointment of this kind is a potential exception, what is the strength of the law?

In previous cases——Quesada and McKee—where exceptions were made, there were compelling circumstances to justify making the exceptions. There are no comparable circumstances in the Butterfield case. At the time it acted on the previous exceptions, Congress leaned over backward to emphasize that no precedent was intended.

Because the proposed Butterfield reinstatement does not have the unique and compelling justifications of the Quesada and McKee cases, it would be precedent-setting. This is, therefore, the point to take a stand on the law—to uphold it or repeal it.

Let us take a look at the Quesada and McKee cases to see if they are in any logical way comparable to the Butterfield case. Mr. Quesada, a lieutenant general of the Regular Air Force, had served as special assistant to the President for aviation matters and had been responsible for putting together the legislation establishing the FAA. No one was as qualified as he to be the first head of the new agency. He was literally drafted for the job. It was a unique case and, as Secretary Douglas then put it, his resignation from the Air Force represented a sacrifice "which, in his case, it is felt the Congress did not intend."

The Armed Services Committee agreed with that judgment, but not before going to considerable lengths—all recorded in the 1959 hearings—to assure itself that the Quesada case would not be taken as a precedent for similar action in the future.

William F. McKee, a retired four-star general from the Regular Air Force, had served in several major commands, including head of Air Force Logistics Command and Vice Chief of Staff. He had acquired specially relevant expertise in a civilian capacity with NASA. The Committee on Commerce voted out the private bill authorizing the President to appoint General McKee as Administrator of the FAA without resigning the rank, grade, or emoluments of his retired military status. Despite General McKee's extraordinary qualifications—which distinguish his case from the Butterfield case—the committee went out of its way to express extreme reservations about the propriety of what it was being asked to do:

Aside from questions relating to compensation, the majority of the members of the committee have grave reservations concerning what appears to be an increasing tendency to fill civilian government positions with retired military personnel . . . This matter should be thoroughly reviewed by the appropriate committees of Congress.

These reservations led the Congress to include a special section in the law expressing "the intent of the Congress that the authority granted by this act is not to be construed as approval by the Congress of continuing appointments of military men to the office of Administrator of the Federal Aviation Agency in the future."

Another salient point that sets the Quesada and McKee cases apart from the Butterfield case is that the relinquishing of retired military status in both earlier cases would have entailed major personal sacrifice. Neither man qualified for civil service pension, and thus would have lost all retirement benefits if special bills had not been passed. This consideration does not apply to Mr. Butterfield, who can have a generous civil service retirement without being reinstated to his retired military position.

If S. 182 is passed and Mr. Butterfield is reinstated to retired military status, he will be eligible for $997.09 per month in gross military retired pay. In addition, he would be eligible for civil service retirement pay, based on 6 years' service, and payable either in a lump sum or in a deferred annuity until age 62.

If S. 182 is not passed, Mr. Butterfield would still be eligible for civil service retirement, including credit for 20 years of military service, of $1,411.38 gross per month. All he would lose from the disapproval of S. 182 are exchange and commissary privileges, participation in the survivor benefit plan, and military medical care for himself and his dependents.

Certainly there is not sufficient hardship involved here to justify enacting a private relief bill that circumvents the clear legislative intent of a specific statute and a fundamental constitutional principle.

In accepting appointment to the FAA post, Mr. Butterfield freely chose to relinquish his military retirement benefits. The matter was thoroughly aired at the time of his confirmation.

In his confirmation hearing before the Senate Commerce Committee on March 1, 1973, Mr. Butterfield told Senator CANNON:

Once I learned that special legislation would have little chance of passing the Senate and House, and that resolution one way or the other would probably take months, I did what I felt I had to do—wrote the letter to Secretary Seamans asking that my name be dropped from the retired roles. That

was nearly a month ago. The issue is now water under the bridge. It should be forgotten.

To revive the issue of Mr. Butterfield's military reinstatement in the face of such explicit understanding and in the absence of any uniquely compelling circumstances relating to qualifications or hardships would be to make a mockery of congressional procedure.

There is no prejudice expressed or implied in my remarks against the character of Mr. Butterfield. The issue at stake goes far beyond the desire of one individual for reinstatement to retired military status.

In the wake of events of the past few years wherein we have seen the weakening of our constitutional system by the development of massive conflicts of interest, we have in my judgment the duty to preserve the laws that guard against such situations.

At a time when we are profoundly reassessing our foreign and defense policies in the light of new problems and perils, we have the responsibility to be doubly vigilant in upholding the constitutional principle of civilian control of the Government.

The matter before us may seem to some not to be of that much consequence.

But at some point—in the national interest—we must take a stand. I believe this, Mr. President, is such a point.

Mr. President, at the outset I would like to make it emphatically clear, if that were necessary, that the issue here today does not involve the personality of Mr. Butterfield. The issue here today is far more fundamental, it is far more important, and it is a matter of principle. It is a matter, first of all, of constitutional principle, that bedrock principle of our Founding Fathers, whether or not we are going to have a separation in this society and in this Government between the military, on the one hand, and the civilian authority, on the other.

Mr. President, I have been particularly distressed that this critical distinction between the civilian authority, on the one hand, and the military authority, on the other, has been blurred, has been systematically abused on far too many occasions in this country. We have seen high military officers being advanced in the professional service not on the basis of their professional military record but on their political connections.

This rebounds, Mr. President, to the disadvantage of the military, to an abuse of the military in this country. We have seen examples under other administrations where, in my judgment, high-ranking military authorities have been called back to America to appear even before joint sessions of Congress and defend, personally defend, unpopular military actions and decisions which are the proper responsibility and accountability of civilian authority under our Constitution and under our laws.

Mr. President, I submit if we continue to be insensitive and indifferent to the erosion of this fundamental principle of a free society, then we are lending ourselves in an incremental but serious way, to the weakening of the very pillars of this institution, of this society, and of its form of government.

There is at issue in this modest bill yet another major and fundamental principle, and that is whether or not we are, as the distinguished chairman of the Armed Services Committee has said, going to obey the law, whether we are going to respect and observe the law as written by Congress in 1958 when it created the Federal Aviation Agency.

Mr. President, as the distinguished chairman of the Armed Services Committee knows, perhaps better than anyone else on the floor at the present moment, that decision by Congress in 1958 to establish a civilian authority to blend within one jurisdiction responsibilities for both military and civilian control of the airways was a very basic reorganization of the American Government. Congress on that occasion took painstaking efforts to make sure in this sensitive area of public policy, in view of the prior military domination of those policies, that control of that sensitive and critically important regulatory authority, an authority vulnerable to conflict-of-interest and abuse, would be insulated, would be protected, against political manipulation.

In the congressional judgment and wisdom, this legislative language was carefully crafted by the conferees from the House and from the Senate. They went to great lengths, Mr. President, to state in unequivocal, clear language under section 301(b) that the Administrator of the FAA must be a civilian in the strictest sense of the word—let me repeat, in the strictest sense of the word.

Under section 302(b) they went on to say that in the event, Mr. President, that the Administrator was a former military personality, then the Deputy Administrator had to be a civilian. They nailed that language into that statute and I do not think they, in their considered judgment and their preoccupation with this public policy question, did that in idle fashion.

Mr. President, there are only a couple dozen cases in our entire Federal Government where Congress has taken comparable care in expressly spelling out the requirement for civilian authority and control. We have it in the Secretary of Defense, we have it in his deputy, we have it in the service secretaries, we have it in the assistant secretaries. Outside of DOD, we only have it where? CIA, NASA, and FAA. That is all. These are the only cases where Congress after careful consideration and reflection in the public interest has said that we do not feel the public's interest will be served if we mix the military and the civilian to any degree in the administration of these critical responsibilities.

Mr. President, the distinguished Senator from Nevada and the distinguished chairman of the Armed Services Committee and the distinguished Senator from South Carolina have all properly referred to the history of this agency and the two exceptions to this fundamental rule of the 1958 law creating the FAA. I think it is only fair that we carefully examine those precedents and determine whether or not, based on consideration of those facts, they, in fact, have any relevancy whatsoever to the present case.

Mr. President, the first case is that of General Quesada. Who is General Quesada?

General Quesada was a very outstanding general in the Air Force. He was a special assistant to President Eisenhower for aviation affairs and, Mr. President, he was credited with shepherding the 1958 law which created the FAA through Congress. He was nominated for this position because he was "uniquely qualified" for the responsibilities at the dawn of creation of this agency. He was someone, as the Senator from Mississippi (Mr. STENNIS) has suggested, uniquely qualified, where the position sought the man.

At the time of his nomination Secretary Douglas of the Air Force said it involved a personal sacrifice that exceeded any that Congress could have intended. He was a remarkable man, a uniquely gifted administrator with specialized knowledge, in the most personalized sense, of this field.

Then we had the case of General McKee in 1965 where, once again, it was argued—it was not universally shared, but it was argued—that we once again were faced with a situation where a very unique individual, General McKee, in the judgment of President Johnson, had special qualifications at this particular historic juncture in the life of that agency, based on his experience in the Air Force and as an Administrator at NASA and in other areas.

They went to General McKee and they said, "Would you like to have this job as the head of the FAA?" He said, "Not on your life. Not on your life, if it means giving up all my military perquisites and my current civilian pay."

It was suggested that maybe they could work out a special arrangement for this special personality because, for a second time in the life of that agency, the position was seeking the man. They came here to this Congress and said to the Congress, "Let us make a deal, let us prospectively waive section 301(b) of the 1958 statute."

There are two Senators here on the floor today who were members of the Commerce Committee on that occasion, the distinguished Senator from Kansas and the distinguished Senator from Indiana. They said, "No, this is not right. This does not comport with the legislative history on this bill. This is wrong public policy. It invites conflict of interest."

They referred also to the damaging consequences to the constitutional and fundamental principle of separation of the military and civilian authorities in the interest of both.

They had a very serious debate here and they voted. It was a recommital vote, many of those here this afternoon will well recall, and it passed by two votes. So that exception went through.

Mr. President, those were the two exceptions. I think it is important, it is extremely important in judging the applicability of those two cases to the present case before us today to review the congressional comments at the time these two cases were considered by the appropriate committees.

The Quesada case. In the Quesada case, the Armed Services Committee, in 1959, held hearings on this subject, and they did so to make sure of what? To make sure that the Quesada case would not be taken—repeat—would not be taken as a precedent, as a precedent for similar action in the future.

Mr. President, I am reading now from hearings on S. 2500 before the Senate Armed Services Committee, dated August 13, 1959, page 18:

Chairman RUSSELL. Any further questions of Senator Monroney (the bill's sponsor)?

Senator STENNIS. I would just like to ask this question, if I may. You have the bill drawn in such a way now that it will be a precedent only—in other words, it is limited to this gentleman by name?

Senator MONRONEY. Yes, sir. I think that is absolutely necessary.

Senator STENNIS. But your purpose isn't to get any general precedent on this practice.

Senator MONRONEY. No, sir. I do not think it should be. The fact of the matter is we wanted a civilian but the nearest thing to a civilian we could get at this point who had the necessary knowledge of the job was a military officer who had resigned his commission.

Chairman RUSSELL. I have always thought it was well to avoid setting any precedent to have the name of the officer included in the bill to show it was done in just that case.

Therefore, Mr. President, I think it is clearly improper for the committee now to cite the Quesada case as a controlling precedent for the present action.

Take the McKee case that I have alluded to. The Commerce Committee on that occasion was responsible for reviewing the legislation calling for a waiver of section 301(b) and its application to the nomination of General McKee.

The Commerce Committee, in 1965, went out of its way to express grave reservations about the propriety of what it was being asked to do. I would like to quote from the committee report on the McKee case:

Aside from questions relating to compensation, the majority of the members of the committee have grave reservations concerning what appears to be an increasing tendency to fill civilian Government positions with retired military personnel. This matter should be thoroughly reviewed by the appropriate committees of the Congress.

To further document and buttress its concern, the committee quoted relevant extracts from a previous report it had prepared 5 years earlier on this same subject. I would like to quote from that report:

We believe it necessary to express some substantial doubts on the wisdom of repeated appointments of retired military officers to high civilian positions, particularly in the administrative and regulatory agencies. Continued appointments of career officers could destroy the symbol of civilian Government as well as promote the unfortunate practical effects associated with almost dominant military influence. There may, of course, be occasions when the particular job or the capabilities of the man indicate the desirability of appointment of a professional military man. But this should be the unusual rather than the usual.

So warned the committee on that occasion. That was June 1, 1965, Mr. President.

So much for the precedents.

Now comes Mr. Butterfield.

I wish to say once again, if it is necessary to reiterate, that I have absolutely no prejudice against Mr. Butterfield personally. His career elsewhere in Government and his identification in the public mind with the recent administration are irrelevant to the issues now under consideration.

With all due respect to him, the issues now properly under consideration transcend that personality.

Mr. President, when Mr. Butterfield was originally nominated by the White House for this position, they sent his nomination up, as the Senator from Nevada mentioned, and they were unaware of the fact that the 1958 law, section 301(b), required that he divest himself, having been a career military man, of all his perquisites and benefits on the retired list. They were advised by counsel of the Commerce Committee that this was not proper.

The White House discussed this with Mr. Butterfield, and Mr. Butterfield voluntarily elected to resign his commission and to come before the Commerce Committee on the occasion of his nomination hearings.

Mr. President, Mr. Butterfield clearly, freely chose to relinquish military retirement benefits, and I believe he should be commended for it. I believe he should be commended for his 20 years of distinguished military service. I think this Nation should be grateful to him for it. I do not think anyone could stand here in the Chamber of the Senate with any other thought in mind. They should commend this dedicated American public servant who, seeing another opportunity to serve his Government, made that difficult judgment, and I do not minimize its importance, to give up what he had in fact and in fairness worked for, to give it up so he could serve his country in yet one more important assignment during his life.

Most importantly, he voluntarily elected to do that consistent with the interest of the Constitution of the United States, and the laws of the land. That does not call for an honorarium, but it may call for some proper acknowledgment, respect, and appreciation. I offer it to him.

But when Mr. Butterfield appeared before the Commerce Committee—and interestingly enough, Mr. President, before the distinguished Senator from Nevada—on March 1, 1973, Mr. Butterfield, in response to a question by Senator CANNON of Nevada, said, "Once I learned"—I, Butterfield—"that special legislation would have little chance of passing the Senate and House, and that resolution one way of the other would probably take months, I did what I felt I had to do: wrote the letter to Secretary Seamans asking that my name be dropped from the retired rolls. That was nearly a month ago. The issue"—and I quote Mr. Butterfield in his official testimony at the time of his appointment and nomination—"is now water under the bridge. It should be forgotten."

What did Mr. Butterfield clearly do? He did what every reasonable person might consider doing in his self-interest. He talked to the people at the White House and they said:

Run over to Congress and go around and see all of these people on the Commerce Committee, in the House, in the Senate. Pay your courtesy calls. And while you are there, you might just want to explore with them the possibility of special legislation. If they treat you like McKee or Quesada, you can have your cake and eat it.

He made those trips. I do not impugn his motives. He made those trips, and he got the message. He told the Commerce Committee what the returns were on that straw poll.

They said, in effect:

Nix. No soap. It is off. We are not going to play any games like that. We had an awful fight with McKee. There is no way that we can justify doing this, this coziness, this Government-by-buddy system about which America is sick and tired.

It is not what you know; it is not what the law says; it is who you know.

So he came back, and he said to the committee:

The issue is now water under the bridge. It should be forgotten.

I commend him for that decision, even though perhaps reluctantly arrived at. But he made it. He took that job, and he took that opportunity. And he should take gratification, if he can, from having served his country once again, hopefully with distinction and with honor and with capacity.

But, Mr. President, this was no case of the position seeking the man. We have had it pointed out here, properly, that McKee was unique and Quesada was unique. McKee was the first Air Force four-star general who was not a pilot, because he was a superb administrator. That was what they needed. As to Quesada, we have been over that.

What is the problem here? Mr. President, the problem is simply this: We wrote a bill. We, Congress, carefully crafted a bill that attempted to be ironclad in its resistance to manipulation and conflict and vulnerability, particularly the military side, because of the unique interest that the military had in the location of airports and air traffic rights and procedures and because of the problems they had when they had two separate systems before 1958. At that time the military was landing everywhere they wanted to land, without adequate regard for civilian safety and civilian health.

What we are doing here is governing by exception. We should have the courage and the integrity to abolish section 301(b) and section 302(b) or we should stop making a mockery of the law. We should stop contributing continually to the complicated commingling of the mil-

itary and civilian interests and authority and responsibility. We should not subject the military to this, and we should not subject the public interest to this.

One of the problems is that if we get into a situation in which we just go through a sham exercise, if we just sign off on these retirement benefits, then there may be a wink across the table, and "When I'm done with this job, I'm going to get all that back." That is not what was intended when we enacted this law, and it certainly is not consistent with the fundamental, bedrock principles of the Constitution as to the critical importance of maintaining separation and distinction between military and civilian authority.

In the case of McKee, in which we had that expressed waiver prospectively agreed upon, they went even one step further when they wrote that law. The Congress said that in McKee's case:

> In the performance of his duty as Administrator of the Federal Aviation Agency, General McKee shall be subject to no supervision, control, restriction, or prohibition, military or otherwise, other than would be operative with respect to him if he were not an officer on the retired list of the regular Air Force.

So they put in that language for McKee right there. That was a signal to the military and everybody else that he could enjoy independence, because it was statutorily prescribed for him, personally.

But let us take Butterfield's case. Butterfield comes in, and he does not know whether or not he is going to get it back, and he would probably like to get it back. I am not impugning his integrity for a moment, but it presents an obvious problem. If he sits there and tries to make these decisions with that hanging over his head, if he is a good boy so far as the military is concerned, he is not going to have any trouble having the military recommend to the President to give it back to him. He has been a good boy. It has to be recommended by the Air Force and approved by the President. It is just that kind of situation that is absolutely unconscionable in terms of any compliance with the clear legislative history and intent that operated at the time this provision was carefully drafted.

Finally, Mr. President, we have a reference to substantial personal sacrifice. In fact, Mr. Butterfield will not suffer financial hardship. He can receive a civil service pension of $1,411.38 per month. His military retired pay, interestingly enough, would be only $997.09 per month. He will now receive, under the civil service retirement, if we do not pass this bill, a free $45,000 life insurance policy, under civil service. He gets all the 20 military service years credited with civil service, because he has the necessary 6 years for a pension. Neither McKee nor Quesada had that alternative. They did not qualify for the civil service benefits, if we want to talk about hardship.

What he does not get are the PX and the commissary privileges. He does not get to fly free on a military airplane if space is available, and it is true that he does not get the medical health benefits that go with a retirement status. But in a country where increasingly you have to be rich in order to be sick, that is not a hardship compared with what other Americans face. He can get an $80 a month death plan for his family. He will be getting $1,411.38 per month, plus the satisfaction of having served his country again, in the FAA, as head of it.

Finally, Mr. President, I think that to approve this bill would establish, for the first time, a general precedent. It would vitiate and wipe out—make no mistake about that—section 301(b), section 302 (b), and the whole import of that subject, in terms of the conflict-of-interest questions and the public policy issues involved. It would establish a special consideration for military men in FAA, and it would create this potential conflict of interest for military men who might be so appointed.

Finally, Mr. President, I point out—and the Senator from Nevada quotes it again—that even the majority report concedes that—

> It may be unwise, as a general policy, to reinstate automatically retired military status to anyone who resigns such status in order to serve in the U.S. Government.

So says the distinguished Senator from Nevada.

They go on to say:

> A case-by-case approach in which the Congress evaluates the peculiar circumstances and equities of an individual situation would seem to be appropriate—

This is the language of the majority report. All I can say is that I agree—Amen. That should be the way we are going about this. It does not happen to be the way.

On that basis, this bill clearly should be defeated.

To revive the issue of Mr. Butterfield's military reinstatement in the face of his own explicit understanding and in the absence of any uniquely compelling circumstances relating to qualifications or hardship would, in my judgment, simply make a mockery of congressional procedure. No prejudice is expressed or implied in my remarks against the character of Mr. Butterfield. Sometimes, I hope, what we consider in this place transcend personal considerations.

The issue at stake goes far beyond the desire of one individual for reinstatement to retired military status. In the wake of events of the past few years, wherein we have seen the weakening of our constitutional system by the development of massive conflicts of interest, we have, in my judgment, the duty to preserve the laws that guard against such situations.

At a time when we are profoundly reassessing our foreign and defense policies in light of new problems and new perils, we have the responsibility to be doubly vigilant in upholding the constitutional principle of civilian control of this Government.

The matter before us, Mr. President, may seem to some not to be of that much consequence. Some may say we are just making a mountain out of a molehill. But at some point, in the national interest, we must take a stand. I believe that, for me, Mr. President, this is clearly such a place.

Mr. GOLDWATER. Will the Senator yield 10 minutes?

Mr. CANNON. I yield 10 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I congratulate the Senator from Iowa, He has presented his case very well and I think in the way he has done it, he has provided a service.

I intend to support S. 182, a bill to provide for the reinstatement of retired military status to Alexander P. Butterfield, recently resigned Federal Aviation Administration Administrator.

The opponents claim the bill represents a continuing erosion of respect for the deep-rooted and essential principle of separation between military and civilian authority.

I agree with that principle and I would not support this bill if I felt that principle was being violated. But I ask how this particular case can be related to the essential principle of separation between military and civilian authority.

In fact, Mr. President, if the Senator from Indiana would care to draft an amendment that would strike sections 301(b) and 302(b), I would support it. I relate later in my paper that I think the time for this fear or concern has been outlived.

Can an honest review of the situation as it was when Mr. Butterfield became the FAA Administrator, lead one to the conclusion that the principle cited had any applicability at that time and to that position? I suggest that it did not.

What were the conflict of interest or potential conflict of interest issues at that time?

Can the opponents of the bill point to decisions made by Mr. Butterfield during his tenure as Administrator that would have been made differently had he retained his commission and his retired status?

I suggest nothing would have been any different as regards those decisions. I also believe that Mr. Butterfield's past military experience helped, rather than hindered, his efforts to make objective decisions.

Now, Mr. President, let me quote from a portion of the dissenting views contained in our committee report on S. 182:

> Mr. Butterfield was of course nominally a civilian, at the time of his appointment, so no special statutory safeguards of this sort were provided for him. But what realistically was his position, if he hoped—as he had been encouraged to do—that "Quesada treatment" might be available to him upon completion of his service as Administrator? Would he not need the continuing good will of the Air Force to support private legislation on his behalf, as indeed that service has done by letter to the Committee in this case? Even if the legislation were passed while he was still in office (which in fact is how it was originally drafted), all it would do is authorize his reappointment to the retired list; would not the good favor of the Air Force still be needed to persuade the President to exercise the reappointment authority?

Now let me further examine a sentence in the just-quoted paragraph which reads:

Would he not need the continuing good will of the Air Force to support private legislation on his behalf, as indeed that service has done by letter to the Committee in this case?

Mr. President, the letter referred to was in response to a request from Chairman STENNIS for the views of the Department of the Air Force on the bill and is a routine procedure, as it is with every bill that in any way might impact on the Department of Defense. To imply that the Department of the Air Force's favorable reply was in any way dependent upon Mr. Butterfield's having kept the Air Force's good will while he was Administrator, I suggest, is a grave injustice to both parties.

Mr. President, so that this point will be clear as possible, I ask unanimous consent that the letter from the Air Force to the committee be printed at this point in my remarks.

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

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, March 11, 1975.

HON. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of the Department of the Air Force with respect to S. 182, 94th Congress, a bill "To authorize the appointment of Alexander P. Butterfield to the retired list of the Regular Air Force, and for other purposes."

The purpose of S. 182 is to restore Alexander P. Butterfield, former Colonel, United States Air Force (Retired), to his former status on the retired list of the Regular Air Force with the retired pay and other benefits to which he would have been entitled had he not resigned to accept appointment as Administrator of the Federal Aviation Administration (FAA). Restoration of retired pay and entitlement to other applicable benefits will not be effective until the day after he ceases to hold the office as Administrator of the FAA or the day before his death, whichever is earlier, and will not be retroactive for the period he served as Administrator.

The proposed legislation is not without precedent, since similar action was previously taken in the case of at least one other Regular Air Force retired officer who was also required to resign his commission to accept appointment as Administrator of the Federal Aviation Administration, and who was later reappointed to the retired list. Such resignation is required because of the specific provision in section 301(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1341 (b)) that the Administrator must be a "civilian". Under existing law, the military departments are without authority to reappoint former retired officers to their former status on the retired list under Mr. Butterfield's circumstances. Therefore, enactment of S. 182 is necessary in order to afford fair and equitable treatment to him.

Under current law (10 U.S.C. 1401, 1401a, and 8991), military retired pay is computed based on the applicable rates of basic pay at time of retirement, plus authorized cost of living increases. Mr. Butterfield was originally retired on February 1, 1969, and resigned on February 8, 1973. The reference in S. 182 to "February 7, 1973," the day before Mr. Butterfield's resignation, might possibly be construed to authorize resumption of his retired pay based on the rates in effect on that date, plus authorized cost of living increases. Such a construction would place him in a higher retired pay bracket than his contemporaries, who were initially retired on February 1, 1969. While we concur in legislation which would restore Mr. Butterfield to his former military status with all the benefits he had acquired as the result of his military service, we do not believe that any advantage should accrue to him by reason of his resignation or reappointment. Accordingly, it is recommended that the reference in S. 182 to "February 7, 1973" be changed to "February 1, 1969" to make clear what we believe is the intent of this bill. It is also recommended that the word "prerequisites" be changed to "perquisites" and that the reference to the "Federal Aviation Agency" be changed to "Federal Aviation Administration" to reflect the correct name. With these changes, the Department of the Air Force recommends enactment of S. 182.

Enactment of this bill will cause no apparent increase in budgetary requirements of the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

DAVID P. TAYLOR,
Assistant Secretary of the Air Force, Manpower and Reserve Affairs.

Mr. GOLDWATER. To keep this in context, I point out that the paragraph following the one previously cited, states:

To ask these questions is not to impugn the personal integrity or honorable intentions of Mr. Butterfield any more than that of General McKee or General Quesada.

Just for a point of the record, I make the comment that we have had other military men serve in this capacity. One was John Shaffer and the other was Mr. Halaby.

Whether the integrity of Mr. Butterfield has been impugned or not will have to be judged by Mr. Butterfield, but I suggest, if not, it is very close. However, I further suggest that the answer to the questions raised about needing the good favor of the Air Force is a resounding "No." In my opinion, it is a poor attempt to make a case that is just not there.

Mr. President, let me comment on how I interpret the intent of section 301(b) of the Federal Aviation Act of 1958, which specified that at the time of his nomination, a potential FAA Administrator "shall be a civilian." It appears to me the purpose was to preclude an Administrator from being subjected to pressures that might cause him to favor military aviation interests over civilian aviation interests. However, it must be remembered what the situation was at the time the law was written. I think this is very important and I hope that I might be listened to.

We were in the process of bringing all of the civil and military traffic operations under one authority and into one system. Naturally, at that time there might have been parochial interests that each side would want to preserve in the new system.

I might point out, Mr. President, that Mr. Quesada, a military man, brought the first semblance of intelligence and enforcement of flying regulations into the FAA. I have been flying for 45 years and, until General Quesada became head of the FAA, no one was ever asked for an instrument ticket, even a ticket to show that he was qualified to fly, a medical examination, or an annual examination. It was under Mr. Quesada, who really brought these things to bear, that we began to get some order in the whole field of safety in flying.

I remind my colleagues of one other thing that happened in World War II. There were no four-engine aircraft flying on the airways of America. The first four-engine aircraft capability was developed in World War II for the military and not for civilian use.

Also, prior to World War II, we did not exceed 200 miles an hour on our airways. At the end of World War II, we had aircraft that flew final approaches faster than aircraft cruised before World War II. So where would we look for the intelligence and the ability to put this combined airway system together?

I say, too, in defense of these men, Mr. President, I know there have been times in the past years when both the Air Force and the Army would like to have instituted their separate airways, but because they had former military people serving, these suggestions were thrown out.

As I said, at that time, we might have had parochial interests that each side would want to preserve in the new system. I hope I have brought them out.

I believe we are all aware of the result of the reorganization and the success of the Federal Aviation Administration. As a pilot, I have used the Air Route Traffic Control System frequently and, in my opinion, it is the best in the world. I have flown into and out of both civilian and military fields all over the country and I can attest we have one completely and totally integrated system.

There is not the slightest trace of a conflict of interest.

My point here is that almost 18 years after the Federal Aviation Act was passed there does not seem to be any real need to have the "civilian only" clause in the law today. I believe the civilian only clause was a valid concern when the law was initially passed but the reasons that prompted the clause originally have long since disappeared. I also suggest there was really no requirement for the clause when Mr. Butterfield was confirmed on March 9, 1973, even though he was at the time a "civilian."

I suspect a major part of the opposition to this bill reflects an antimilitary sentiment. I do not believe the opponents of this bill can show that by having an ex-military man as FAA Administrator, the principle of civilian control over the military has been violated.

There are positions, however, such as the Secretary of Defense, Deputy Secretary of Defense, or the service Secretaries and other policy positions in the Department of Defense and the executive branch where such a rule has a relevancy. But I fail to see its relevancy with the FAA position, especially since the original problem was long ago resolved.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. GOLDWATER. I am happy to yield for a question.

Mr. TOWER. It is not a fact that the people of this country have on many oc-

casions throughout our history elected professional military men as Presidents of the United States, and generally most of them have been fairly competent Presidents; some of them have been outstanding?

Mr. GOLDWATER. The Senator is absolutely correct.

In spite of the antimilitary attitude in this country, I recall that President Kennedy turned to General Maxwell Taylor and recalled him to active duty. I believe we went through this same routine under another law. President Eisenhower came under the same routine.

There have been a number of general officers or high-ranking military officers who have been called back for specific jobs in our Government. Why? It is because the field they have served in all their lives gives them an expertise that the civilian has no way of getting.

I point out to my friend from Texas—I may be wrong on this but I think Purdue University is the only school today that gives courses in the type of administrative work that we are talking about, that could lead to a man being qualified to be the FAA Administrator, having gained that experience academically through a school. There may be others. I know that at Arizona State University we are trying to establish one.

But the record of our country is so complete with men who have served in the military and then gone on; and when they have been called to come back and serve, they have.

I am not arguing that all of them went through the so-called Quesada treatment or McKee treatment. They did not, but nevertheless—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GOLDWATER. Will the Senator yield me 5 more minutes?

Mr. CANNON. I yield the Senator 5 more minutes.

Mr. GOLDWATER. What we are talking about here, I think, has essential application to our whole system of government, and I would hate to see the division between the military and the civilian grow larger.

I can say this to my friend from Iowa: That there is no group of people in this country who respect the separation of the civilian and the man in uniform more than the man in uniform. I have been around them enough to know that.

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

Mr. GOLDWATER. I am about through, Mr. President, and then I will yield.

I think it would be a grievous error for the Senate not to restore Mr. Butterfield's retired status; a status he gave up to comply with the letter of the law but not necessarily in order to comply with the intent.

Mr. President, the Senator from Iowa, in making his opening remarks, commented that high-ranking military men have political pull.

I have known a lot of high ranking military men in my life who never voted, including President Eisenhower. Some of them had friends in Congress. Some of them had friends other places. I do not agree that they have the amount of political pull that is attributed to them.

The Senator referred to high ranking military personnel being brought back to this city—I assume he refers to the Vietnam war and even the Korean war—to give reports to Congress and giving reports that sounded good when the commanders, I can assure the Senator, did not think they were good. But what do you do when a Commander in Chief—and that is the man who is responsible for the actions of a man in uniform—says "Get up before a joint session of Congress and tell them we are going to win this war in Vietnam in 6 weeks?"

The general can tell the Commander in Chief to forget about it, but if he values his position and the position of the military he is not going to do it.

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

Mr. GOLDWATER. I want to close on this point.

Money has never been an issue as to whether a man in uniform would forego his emoluments in order to take a civilian job. If that were the case, we would not have had any.

My comment, too, in closing, is that PX, commissary, and most importantly medical benefits would be enjoyed by this gentleman were he restored, and under the Civil Service he cannot invoke full Civil Service retirement prior to the age of 55; otherwise, he would take a percentage cut from Civil Service retired pay for each year under 55, and I think that Mr. Butterfield is 49 years of age.

So, I urge my colleagues to vote in favor of S. 182.

Again, I will happily join any Senator in sponsoring an amendment to strike sections 301(b) and 302(b), which I think were necessary at the time but unnecessary now.

I have yielded back the remainder of my time.

Mr. CULVER addressed the Chair.

The PRESIDING OFFICER. The Senator has yielded his time.

Mr. GOLDWATER. If I have time I will yield it.

Mr. CULVER. Mr. President, I thank the distinguished Senator from Arizona for yielding.

Let me just say how heartened I am to hear the Senator from Arizona say and acknowledge that what we are really debating here this afternoon is essential principles.

Let me also hasten to say that in maintaining this critically important distinction, so fundamental to our system and our way of life, my fear, I say to the Senator from Arizona, is coming not from the military failure to understand this distinction, its appropriate application and its importance, but rather, as the Senator implies, from the failure of civilian elected representatives of the American people to understand it——

Mr. GOLDWATER. I agree.

Mr. CULVER (continuing). Who do not understand the basically constitutional distinction and principle and the historical reasons that gave rise to it.

Mr. GOLDWATER. I agree.

Mr. CULVER. I share with the Senator from Arizona, as a veteran, the strong, sincere, deep belief that we, as a people, should be eternally grateful for the extent to which there has been this widespread basic acceptance by the American military of this principle. It is remarkable, the extent to which they have perceived, respected, and appreciated and understood the very basic tenants of this society and its principles.

I wish I could say as much for my fellow politicians.

I do think there has been no greater disservice to military morale than the irresponsible and reckless fashion, in which high ranking political personages in our Government, of both parties, have called upon the military to defend unpopular decisions that are the proper accountability of the civilian. In addition, the Senator knows and I know, there are those who have been politically promoted to some big jobs in the military.

We saw the case in the Marine Corps and the CIA. We see the case in NATO today.

It is difficult to defend the quality of those appointments based on professional military achievement or competence.

The PRESIDING OFFICER. The time of the Senator from Iowa has expired.

Mr. GOLDWATER. Mr. President, I yield the Senator 5 additional minutes.

Mr. CULVER. If I could finish the statement, those are political appointments.

How would the Senator feel if he were poised to be Commandant of the Marine Corps on the basis of his professional service record and lose the opportunity due to political favortism? How would he feel if he had the necessary command responsibility and experience to justify the culmination of a military career to be head of NATO and see it go by the boards because somebody knew somebody or somebody owed somebody something? How would he feel if he were a dedicated military person fighting an unpopular war in Vietnam, feeling the policy was wrong, and being ordered by his Commander in Chief to go before a joint session of Congress and defend it and compromise and pervert the integrity of his profession that way?

No, sir, I do not have any problems with my military fellow Americans. It is my civilian political fellow Americans who trouble me the most, and that is what the debate here today is all about.

I will just conclude. The Senator mentioned President Eisenhower. President Eisenhower, General Marshall, those men understood it. Dwight Eisenhower warned in his farewell address to the Nation, and I quote:

> In the councils of Government we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist. We must never let the weight of this combination endanger our liberties or the democratic process.

Now, Mr. President, I must say it is really tiresome to hear it said that those of us who advocate the essential necessity to maintain the distinction, and respect it, between the military and the civilian, are somehow antimilitary.

I would submit, sir, with all due respect that the thing that has taken down the military is the civilian-political failure to understand that distinction, to fight for it, to maintain it, and not tolerate and permit the perversion of the professional military.

So I say here, I hope I have made my point clear, that I in no way am impugning the personal integrity of Mr. Butterfield. I really do not think that is the problem. When we raise those questions about the potential conflict about putting him into a position and bypassing and circumventing the clear intent of the 1958 statute, then I think we, not the military, have defaulted on our clear constitutional duty and responsibility which is every bit as sacred as the one the military undertake. Under our system of government it even poses a greater degree of responsibility and accountability which we should no longer fail to appreciate.

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

Mr. CULVER. I am glad to yield.

Mr. GOLDWATER. I could not make a more eloquent argument as to the Senator's point, with which I completely agree, than he has made, but I think he is getting away from the point today.

Now, are we accusing Mr. Butterfield of having received this appointment because of a political favor? If that is the charge, I think we ought to work on that.

I think the debate here should center on whether or not Mr. Butterfield should be reinstated as a reservist and receive those benefits for which he worked 20 years.

I agree completely with what the Senator is talking about, and I get just as mad about it as he does. I do not like it. It used to make me sick to my stomach to hear people come back here from Vietnam and say, "It is just around the corner," because Robert McNamara said that is the thing to say, and they knew it was not just around the corner.

So if we are going to try to charge Mr. Butterfield with having been the recipient of political power, a colonel, that is one thing, and possibly the Senator can make that argument. I do not believe he can. Whether or not he was the most capable man around, I do not know, but I will say this——

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

Mr. GOLDWATER. But I will say this: He has done a good job under a most unusual situation, because since the advent of the FAA we have constructed another agency which has taken over most of the safety work originally given to the FAA, and that is something beside this point, but something we are going to have to iron out someday.

I have said all I want to say on this, but I think the Senator has made a very, very good case. However, I do not think he is applying his logic to this particular case, but to the whole general case, and I am in complete agreement with him on that.

Mr. CULVER. Mr. President, if the Senator will yield, the specific facts in the Butterfield case, in my judgment, are distinguishable from the Quesada case and the McKee case. In answer to the Senator's question, I do not think Mr. Butterfield is on trial here today. I think the Senate is.

I think the Senate is on trial, and I think this is going to be a test vote not on who is promilitary and who is antimilitary, but who really understands the fundamental principles implicit in the Constitution, such a basic consideration of a free society, in keeping this separation, and who is going to obey the law; it is also a vote on whether we, as the Senate, want to make a mockery, a repeated mockery, of this carefully crafted insulation from conflict-of-interest situations.

This is no reflection on Mr. Butterfield. We are talking about institutions. We are talking about principles. We are talking about obeying the express language of a statute which in my judgment is clear, unequivocal, and compelling. I think the test today will occur on whether or not the Senate is going to begin on this occasion to start to reassert what is far more fundamental in our system than just the proper role of Congress, whether we are going to respect the Constitution and our own laws.

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

Mr. CULVER. I yield myself 5 minutes. I yield to the Senator from Rhode Island.

Mr. PASTORE. Did Mr. Butterfield know what he was getting into when he received the appointment?

Mr. CULVER. Yes, I think it is very clear that Mr. Butterfield did. I quote from his appearance on March 1 before the distinguished Senator from Nevada at the Commerce Committee hearing:

> Once I learned—
>
> I, Butterfield—
>
> that special legislation would have little chance of passing the Senate and House, and that resolution one way or the other would probably take months, I did what I felt I had to do—wrote the letter to Secretary Seamans asking that my name be dropped from the retired rolls. That was nearly a month ago. The issue is now water under the bridge. It should be forgotten.

Mr. PASTORE. Does that necessarily mean that he was giving up for good his association with the Army or the Air Force or that it only means that because a special exemption had to be made before he could take the position that rather than wait he would resign from the Air Force?

My question is specifically this: Was he told at the time that once he accepted this he became a civilian for good and that he could not again return to the armed services?

Mr. CULVER. I do not think a fair reading of the public record would indicate that he could have had any other understanding.

Mr. PEARSON. Mr. President, does the Senator from Iowa have any additional time?

The PRESIDING OFFICER. The Senator from Iowa has 10 minutes still remaining.

Mr. PEARSON. Mr. President, will the Senator yield 2 minutes to me?

Mr. CULVER. I yield 2 minutes to the Senator from Kansas.

Mr. PEARSON. Mr. President, in this debate today some very fundamental issues have been developed in depth ranging all the way from constitutional principles to voluntary action.

For myself, I was one of those who were earlier approached because of my position on the Commerce Committee as to whether or not if Mr. Butterfield's name came up here and, I suppose, because of my prior positions on General McKee, whether or not we could effect another waiver, and I spoke only for myself and I said "no."

The proposition put at that time was not can we have a relinquishment of military benefits today and put it back later on; no one mentioned that. I think, in all due credit to Mr. Butterfield, who turned out to be a pretty good administrator, he did not have that in mind either. So, aside from these great fundamental questions it just seems to me we ought not to finesse this. We ought not to make a charade out of the statute.

The Senator from Indiana and the Senator from Arizona and myself in moments of pique say, "We just ought to abolish the statute, we ought to repeal it."

Well, we will not have to. We have already done that. If Congress is not going to follow congressional intent, we ought to stop complaining about the people downtown.

Mr. Butterfield did a pretty good job. I voted for him, but we really ought not to let this thing slide over.

I thank the Senator.

Mr. CANNON. Mr. President, I yield myself 2 minutes with respect to the question of the distinguished Senator from Rhode Island. I, as chairman of the Aviation Subcommittee of the Commerce Committee where this matter came, the nomination originally, was contacted to find out if a waiver could be granted under the McKee type situation, and I advised the people who contacted me that it could not.

The name of Mr. Butterfield was sent up and the White House was advised by a number of people, Senator PEARSON and others, that a waiver could probably not be granted in this case, and if it did, it would take a long period of time.

I said that I would not, as chairman of the committee, even hold hearings on the nomination while he was a retired officer because under the statute I felt he could not, therefore, qualify.

Now I am advised by Mr. Butterfield that when his name was sent up he did not realize he was going to have to resign, but before I would hold hearings, he did have to resign and his name having been sent up, he decided to make the decision at that point to resign because he knew there was no likelihood of a waiver going through under a McKee-type situation.

So when he appeared before the committee for confirmation, he was then a civilian.

There has been no violation of the law. The Senator suggested a violation of the law. The law has not been violated. He was a civilian at the time he came up, he was confirmed and we are not violating the law in attempting to permit him to be reinstated. We amend law every day.

The PRESIDING OFFICER. The Senator's 2 minutes are up.

The Senator is recognized for 1 additional minute.

Mr. CANNON. If the Congress wants to amend it.

Mr. PASTORE. Will the Senator yield?

Mr. CANNON. Yes.

Mr. PASTORE. It is true that the Congress can amend it, can undo anything it does. But the point still is that what we are doing today, in effect, is what we refused and intimated we would not do at that time.

Mr. CANNON. No.

Mr. PASTORE. So, in effect, that is the result.

Mr. CANNON. No.

Mr. PASTORE. Well, that is the result.

What we are saying now is that it did not make any difference what the law was, that a military man could not assume a civilian position. What we are saying now, having done that, we will put him back as a military man. So, in effect, what we are doing in 1975 is what we intimated to the administration we could not do under the law at the time of his appointment.

In effect, that is the result.

Mr. CANNON. Not that we could not, but would not do.

I said, we would not push the McKee type situation. McKee was different from Quesada because in McKee we made a special exemption.

The PRESIDING OFFICER. Does the Senator take another minute?

Mr. CANNON. The Director of NASA has to be a civilian and McKee served in a number of important positions around here different from what the law requires, and not only head of the FAA.

I yield 2 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, the language of the report states that the record shows that Alexander Butterfield was well aware of the actions and reservations of the Congress in respect to section 301(b) of the FAA Act when he consented to having his named placed in nomination.

I talked to Mr. Butterfield this morning. He said that this is not correct, that when nominated by the President for this position, which, incidentally, he did not seek, he was not aware of section 301(b), this is what Mr. Butterfield says:

> The publicity was out, the announcement had been made by the White House, my conscience would not have permitted me to withdraw my name after the announcement was made. Later on, another formal paper nomination was made as required by Senator Cannon and at that time I was aware of section 301(b), but again the announcement had already been released.

I hope that will clarify that matter in the RECORD. This is what Mr. Butterfield's response is.

I hope that this will be adopted, Mr. President. This man has been a good public servant.

In my view, military men are among the best public servants. I think we do have a splendid class of professional military men in this country, they have been well trained, well educated, many of them speak several languages, they have a sophistication in international affairs, and very often I think they make splendid public servants. Ordinarily, they have already demonstrated their enormous loyalty to the United States of America.

I hope we are never of a mind around here that we think something is frightening about the military mentality that makes a military man unfit to the service of his people in his employment.

The PRESIDING OFFICER. Who yields time?

Mr. CLARK. Mr. President, does the Senator from Iowa have time remaining?

I would like simply to ask a couple of questions of the Senator.

First of all, if we are going to be asked to make an exception to the law by passing another law, as the Senator from Nevada just suggested, and if, indeed, we are in the prospect of doing that to violate what the Senator described as a constitutional principle of separation, what is the purpose of it?

I mean, what are the benefits to Mr. Butterfield?

To my understanding in listening to the debate, he is going to continue to get his retirement benefits, that he loses very little in the process of this, but can the Senator be specific about what benefit accrues to Mr. Butterfield out of this legislation, or as a result of this legislation, why are we going to make an exception, why are we going to violate a constitutional provision, for what reason?

Mr. CULVER. It is difficult to understand, because under the civil service pension, which he does have rights to, he would get $1,411.38 per month but his military retirement pay would be only $997.09 per month.

He also gets a free $45,000 life insurance policy, civil service, and the thing he does not get is PX privileges, the commissary. He does not get the military medical benefits which I think is probably very important to him. He cannot fly on space available in military aircraft.

But on the medical pay, as the Senator is well aware, for $80 a month he can get a comprehensive health insurance plan for himself and his family.

I do not think it requires a special relief act by the U.S. Congress to do that, and I think this is really what, essentially, is at issue here.

Mr. CLARK. Well, I would like to ask any person here in the Chamber if we take exception to that, is that the purpose of this law, we simply make an exception to a constitutional principle or make an exception to this law so someone can have PX privileges and health care privileges?

What was the other—commissary privileges?

Mr. CULVER. Commissary and flights on military aircraft on a space-available basis.

Mr. CLARK. I wonder if anyone disagrees with that. Is that the reason for the change in the law?

Mr. CANNON. Well, that is certainly not the reason for the change in the law. This goes far beyond.

We are trying to equate this to a basic fairness principle similar to the procedure we followed in the case of Quesada, in the case of McKee, in the case of President Eisenhower. We restored President Eisenhower to all of his benefits after he left the Presidency.

Now, this has been very ample from the standpoint of precedents and Senator GOLDWATER responded to the Senator from Iowa.

The Senator's statement is not correct. Mr. Butterfield would not receive the same benefits now under civil service retirement if he were to retire because, I am not sure exactly what his benefits would be, but certainly less than full retirement, as the Senator from Iowa stated.

Mr. CULVER. Will the Senator yield on that point?

Mr. CANNON. I yield on the Senator's time.

Mr. CULVER. That is fine.

These figures, I would suggest, and I think the RECORD should show, are the product of the Armed Services Committee staff and my own staff, independently arrived at, identically agreed to. Those figures——

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. CULVER. I yield 2 minutes to the Senator from Colorado.

Mr. GARY W. HART. Mr. President, I would like to ask the distinguished Senator from Iowa a further question.

In his opening remarks, and the cases cited as precedent here, the so-called Queseda and McKee cases, there seem to be special circumstances involved, particularly in terms of the qualifications of the individuals that may not be involved here.

Does the Senator from Iowa see the kind of special circumstances in the case of Mr. Butterfield that existed where General Quesada was concerned?

Mr. CULVER. No, I clearly think they do not exist in either case for the reasons I made reference to.

General Quesada had been a special assistant to President Eisenhower, helped draft the law establishing the FAA, served 27 years, was a three-star general, and was uniquely gifted, as Senator GOLDWATER mentioned, in terms of the critical requirements at that time, at the agency's inception, to manage the responsibilities of the department.

General McKee had served in several major commands, including head of Air Force Logistics Command and Vice Chief of Staff, had served 35 years, and was a four-star general. He had served as assistant administrator for management development at NASA.

I think these men clearly merited special consideration and were exceptionally qualified and served with distinction in those FAA posts. I think for those reasons those cases are clearly distinguishable.

With all due respect to Mr. Butterfield, I was a little surprised to hear the Senator from Nevada suggest that his case was comparable to General Eisenhower.

Mr. GARY W. HART. Will the Senator yield for a further question?

Mr. CULVER. I yield.

Mr. GARY W. HART. The Senator made clear in his opening remarks that there was nothing punitive here, nothing personal against Mr. Butterfield's background. I would like to identify myself with that sentiment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CULVER. I yield 1 additional minute.

Mr. GARY W. HART. Is it not the case that under the precedent we are reaffirming here today, if the distinguished Senator will respond, that there is nothing to prevent someone from being appointed from the military ranks to this position, serving a matter of days and being restored to his full military status thereafter, after having made one or two very important decisions? Is that the case?

Mr. CULVER. That is correct.

Mr. GARY W. HART. There is no time of service involved here at all?

Mr. CULVER. That is correct.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Is it necessary to yield back the remainder of my time in order to offer the committee amendments?

The PRESIDING OFFICER. It is not necessary to yield back the time.

Mr. CANNON. Mr. President, there are three perfecting amendments at the desk. I ask for their immediate consideration.

The PRESIDING OFFICER. The first committee amendment will be stated.

The legislative clerk read as follows:

On page 1, line 7, strike out "prerequisites" and insert in lieu thereof "prequisites".

The PRESIDING OFFICER. Is there objection to such a modest request? The question is on agreeing to the first committee amendment.

The first committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the second committee amendment.

The legislative clerk read as follows:

On page 1, in line 10, strike out "February 7, 1973" and insert in lieu thereof "February 1, 1969".

The PRESIDING OFFICER. The question is on agreeing to the second committee amendment.

The second committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the third committee amendment.

The legislative clerk read as follows:

On page 2, beginning in line 4, strike out: SEC. 2. The effective date of the appointment authorized by this Act is the day after Alexander P. Butterfield ceases to hold office as Administrator of the Federal Aviation Agency, or the day before his death, whichever is earlier.

The PRESIDING OFFICER. The question is on agreeing to the third committee amendment.

The third committee amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of bill, insert the following:

SEC. . Section 2004 of title 10, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(g) In computing the six-year period referred to in subsection (b)(1), any period during which any such officer was in a missing status (as defined in section 551(2) of title 37) shall be disregarded.".

The PRESIDING OFFICER. There is 15 minutes a side on this amendment. Who yields time?

Mr. ALLEN. I yield myself such time as I may use, Mr. President.

This amendment, Mr. President, is not germane to the present bill. It would be subject to a point of order if any Senator wishes to make a point of order. I believe Senators will probably want to consider the amendment on its merits rather than on the question of whether it is germane or not. Time is of the essence in this particular matter.

Under the existing law, and I am advised that it is called the Goldwater law, named after the distinguished Senator from Arizona (Mr. GOLDWATER), the Air Force has the right each year to send 25 of its officers to graduate school, including law school. The requirement is that they must have served for at least 2 years and not more than 6 years.

A situation has been called to my attention by two former prisoners of war, one from my home State of Alabama. That constituent was a prisoner of war for more than 4 years. That 4 years added to his other years of service would make his active duty service more than 6 years, and he would not be eligible to apply for this assignment. He has been accepted in law school but it is not known that he will be nominated. This amendment would take out from under the active duty status of this maximum of 6 years that is permitted the time spent as a prisoner of war and would give a prisoner of war who has returned to the active service an opportunity to apply for this type of further schooling.

All this amendment would do would be to elimiate the prisoner-of-war time that the serviceman had served and make him eligible to apply.

I have spoken to the distinguished floor manager of the bill, the distinguished chairman of the Armed Services Committee, the distinguished Senator from Texas, and the distinguished Senator from Arizona (Mr. GOLDWATER) on this matter, and they have no objection. In fact, Senator GOLDWATER, who is the author of the original legislation, feels that this should be done. I hope the point of order will not be raised.

Mr. CULVER. Mr. President, a point of order.

The PRESIDING OFFICER. On whose time?

Mr. CULVER. A point of order.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CULVER. Mr. President, it is with great reluctance that I do raise the point of order on the nongermaneness of this particular amendment to the pending bill.

Mr. ALLEN. I will raise a point of order as to his point of order that a point of order cannot be made until the 30 minutes have expired.

The PRESIDING OFFICER. The point of order cannot be made until the time of the Senator from Alabama has expired.

Mr. CULVER. I reserve the right.

Mr. GOLDWATER. Will the Senator yield?

Mr. ALLEN. I am delighted to yield.

Mr. GOLDWATER. Mr. President, I think this amendment should be adopted. I did not expect that it would be offered here this afternoon. The Judge Advocate Corps has gotten so low in its membership in numbers, not quality, and it is getting so increasingly difficult to get young lawyers into the service, that several years ago, before there was any idea that prisoner of war status might have an effect, we did pass legislation that allowed each service, not just the Air Force, to send 25 men to law school each year, provided they had had 2 years of service and not more than 6. We felt that this was necessary because after a man has been in 2 years, he has either made up his mind to stay or get out. If he goes to law school, the chances of retaining him in the Judge Advocate Corps is much better. I think it is only proper.

In fact, the way I remember the legislation I thought that it was permissive to each service to be able to waive the matter of time. It is obvious that the legislation was so restrictive that they cannot do that. An amendment like this will be necessary at some time.

I thank my friend from Alabama for introducing it.

Mr. TOWER. Will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. TOWER. The Senator did discuss the amendment with me. I think it is the only fair and just thing that we can do. Certainly, at the time the law was enacted it was not anticipated that this kind of a situation would arise. I certainly believe we owe it to the men who have logged so much time in prisoner of war camps to give them the opportunity to qualify without counting that time against them. They have had enough counted against them already. I commend the Senator from Alabama for introducing the amendment.

Mr. ALLEN. I thank the distinguished Senator.

Mr. CANNON. Will the Senator yield?

Mr. ALLEN. I yield.

Mr. CANNON. I support the amendment of the Senator from Alabama. I believe it will correct an inequity for a former prisoner of war that was never intended. I am happy to support it.

Mr. STENNIS. Will the Senator yield to me briefly?

Mr. ALLEN. Yes.

Mr. STENNIS. I understand that this is general legislation. Is that correct?

Mr. ALLEN. It is general legislation.

Mr. STENNIS. It is designed to take

care of any prisoner or war, not just one from Alabama or anywhere else.

Mr. ALLEN. Yes. It was merely called to my attention by a constituent in Alabama.

Mr. STENNIS. Mr. President, I commend the Senator for offering the proposal. It seems to me that it would be unfortunate if we were not able to handle a matter such as this.

The Senator said that time was of the essence.

Mr. ALLEN. Yes. I would like to explain that.

Mr. STENNIS. I wish the Senator would.

Mr. ALLEN. The Air Force makes its choices before the end of June. It is necessary that this measure be passed if prisoners of war who served more than 6 years are to be eligible for assignment to this further education.

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

Mr. ALLEN. I yield.

Mr. PASTORE. Does not the Senator feel that this would be the better part of wisdom: His amendment essentially is one that would receive unanimous consent of this body. Naturally, we are all for the prisoners of war and want to give them all the benefits they are entitled to. If, for any reason, these benefits are being denied them, they should be given to them. I suggest that if the Senator would introduce this as a bill and ask for immediate consideration, he could have his law this afternoon.

The trouble is that the Senator is mixing up something that has nobility with something that is being disputed as a violation of the separation of powers, and I think we are getting apples mixed up with oranges.

I can see the strategy in this, and I can see what effect it will have. I think it is unfair to mix at this moment something that has the compassionate aspect——

Mr. ALLEN. Mr. President, I yield for a question.

Mr. PASTORE. I will ask the Senator a question. Would it not be better and more effective and more expedient to introduce it as a bill and ask for immediate consideration, and we will all vote for it?

Mr. ALLEN. I have introduced a bill already. If I can get it considered at this time, I will be willing to withdraw the amendment.

Does the Senator from Mississippi have objection to the Committee on Armed Services being discharged from further consideration?

Mr. STENNIS. Mr. President, if the Senator will yield, I had no personal knowledge of the existence of the Senator's bill until this morning, when he mentioned it here. I would hate to see us do this on a matter of this kind. This bill is going to be voted on in a few minutes. After all, what is the objection to putting the amendment on the bill? Is the inference here that this is a strategy on the part of the Senator from Alabama?

Mr. PASTORE. I think so.

Mr. ALLEN. I can understand the objection of the Senator from Iowa to a bill benefiting Mr. Butterfield, but I cannot understand his objection to a bill benefiting prisoners of war. Possibly he has a reason for that.

I yield back the remainder of my time, so the Senator can make his point of order.

Mr. CULVER. Mr. President, does any time remain on the amendment? I wish to make a point of order.

Mr. PASTORE. Mr. President, will the Senator yield before making his point of order?

Mr. CULVER. I yield.

Mr. PASTORE. Mr. President, we are being told that we cannot agree to a bill because we do not know what is in it, but we are ready to vote for an amendment that would do exactly the same thing, without knowing what is in the amendment.

I say, very frankly, that I think this is turning out to be a charade, and it is wrong—it is absolutely wrong.

The Senator from Iowa perhaps will lose his case. Perhaps he does not have the votes. But all he is raising here this afternoon is the fundamental principle under the Constitution that this is a civilian government, not a military government. That is the reason why we passed these laws, in order to discourage the military from taking over civilian power. We do that in the case of a Secretary of Defense. We do that in the case of a Secretary of State. We have done it all the time. Why do we do it? We do it because we say that this is a civilian government and it should never be taken over by the military. That is the purpose behind it. That is all we are trying to enforce. That is why Congress passed the law. Now we are changing it. We are making it a matter of personalities. It is not a matter of personalities at all.

Every man in the military knows that when it comes to a civilian job, he has to make a choice. We do it with our judges. I had to do it when I was Governor. We had a judge who became a captain in the Navy. When he got out of the Navy, a question arose as to whether or not he could assume the bench; and he had to be reappointed and had to be reconfirmed. The reason for that is fundamental: because there must be a separation of powers.

This afternoon, in order to blur up and to fuzz up a principle, what are we doing? We are offering an amendment that everybody is for. If it is agreed to, the question will be, did we vote to help the prisoners or did we vote to sustain a principle of the Constitution?

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

Mr. PASTORE. Of course I yield.

Mr. STENNIS. I will say this to the Senator. As to any inference that there is any kind of plan or scheme here of putting a POW amendment on the bill to make a man eligible in a few days, I can speak only for myself, but I say that the Senator is totally mistaken. Talking about wrong, his inference is downright wrong, to be making a charge such as that on the floor of the Senate.

Mr. PASTORE. I am not making the charge. But I have lived to be 68 years old, and I have been in public life 40 years, and I can see a strategy when a strategy takes place.

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

Mr. PASTORE. I yield.

Mr. GOLDWATER. Mr. President, when the Senator from Alabama came to me prior to the submission and discussion of this measure and asked me about offering this amendment, I could not see any real difficulties. But I must say that I am persuaded by the arguments of the Senator from Rhode Island that there is conflict. As one vitally interested in both matters, I feel that this body would be better off if we voted on each matter separately.

Therefore, I am going to ask the Senator from Alabama to consider withdrawing this amendment, so that we can get along with voting on the original S. 182, which is why we are here, and then see if we can get along with the job of persuading the chairman of the Committee on Armed Services to bring up the other bill, which has a lot of sense to it.

Mr. PASTORE. We can bring it up this afternoon, and I will vote for it.

Mr. ALLEN. I will accede to the request of the Senator from Arizona.

Mr. President, I ask unanimous consent to have printed in the RECORD a document in behalf of the amendment.

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

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

HENRY P. FOWLER, JR.

Henry P. Fowler, Jr. was born on March 6, 1939 in Washington, D.C. He is a graduate of Valley Forge Military Academy and The George Washington University, holding a B.A. in Sociology.

He entered Officer Training School in the U.S. Air Force and graduated in February, 1965 as a distinguished graduate. He received his commission as a second lieutenant and was subsequently given an Air Force regular commission by President Johnson.

Henry Fowler attended and completed pilot training and then completed F-4 fighter/bomber training where he graduated as the outstanding pilot.

On December 20, 1966 he was assigned to Ubon Royal Thai Air Base, Thailand. On March 26, 1967 his F-4C aircraft was struck by two surface to air missiles over Hanoi, North Viet Nam. He was taken prisoner on this date and returned to the United States in February, 1973, six years later. He returned with numerous awards and decorations which include the Silver Star (the third highest medal given by this country), two Purple Hearts and three Air Medals.

After being interned in the Travis Air Force Base Hospital he attended the C-141 Aircraft Training School at Altus Air Force Base, Altus, Oklahoma. He graduated as the Honor Student of his class.

On April 6, 1974 Henry Fowler was married to the former Patricia Gay Gwin, a United Airlines stewardess.

He is presently flying the C-141 aircraft at Travis Air Force Base, California. He spends ninety percent of his time working in the Social Actions Office, serving as assistant Equal Opportunity and Treatment Officer (see attached letter). He is also attending Command and Staff School and is enrolled in classes with Chapman College leading to a Masters Degree in Psychology.

He recently has been chosen by the Junior Chamber of Commerce as one of the outstanding young men of America of 1974.

FACTS AND SPECIFIC ACHIEVEMENTS

Since 15 Apr 74, Captain Fowler has been assigned to the Social Actions Office under the ADCAP Program. He has served as Assistant Equal Opportunity and Treatment Officer and, when the EOT Officer has been on TDY for as long as nine weeks, he has filled that position. He spends ninety percent of his duty time in this office and performs his duties in an obsolutely superior manner. He has directly participated in fourteen EOT cases and has been extremely successful in working with others. He has demonstrated an outstanding ability to deal with people of all races, nationalities and sexes, and has worked particularly diligently on cases involving equal opportunities for WAFs.

He has written letters for the commander clarifying a supervisors position in WAF administration. He developed the 60 MAWg policy on Equal Opportunity and Treatment. He wrote the Wing Social Actions Plan. Capt. Fowler frequently briefs all incoming personnel on the functions and many facets of the Social Actions Office at the biweekly newcomers orientation. He writes much of the material which emanates from this office including letters to and for the Commander. Capt. Fowler has represented our office and the 60MAW as guest speaker at a variety of functions and establishments. Some of these included: Commencement Speaker at the California Highway Patrol Academy at Sacramento; The Lion's Clubs at both Fairfield and Rodeo, California; the NCO Dining Out at Travis AFB; Veteran's Day at the National Guard Armory at Richmond, California; POW/MIA Memorial Dedication at Travis AFB; and American River College at Sacramento, California.

All of his speeches have received the highest praise.

Strengths: Capt. Fowler continuously displays an extreme interest in his work and always demonstrates outstanding initiative and acceptance of responsibility. Capt. Fowler's forte is, without doubt, his ability to express himself both orally and in writing.

Suggested assignments: Capt. Fowler should be afforded the opportunity to attend law school at the earliest opportunity. His abilities can best be utilized in the social actions career field until he is selected for training in the legal field.

Self improvement efforts: Capt. Fowler continuously attempts to improve himself by studying the English Language on his own and by attending formal classes. He is presently enrolled in the non-resident Command and Staff School which he is attending by seminar at Travis AFB. He is enrolled at Chapman College pursuing a Master's Degree in Psychology.

Other comments: Capt. Fowler's bearing and behavior are outstanding. He exemplifies top military standards. I believe that Capt. Fowler is a superior officer displaying outstanding growth potential. Promotion well ahead of his contemporaries and in the secondary zone is strongly warranted.

ORINDA, CALIF., *May 13, 1975.*

Hon. JAMES B. ALLEN,
Washington, D.C.

DEAR SENATOR ALLEN: I am writing to you in regard to a matter of utmost personal importance concerning legislation allowing active duty officers to attend law school. I was a Prisoner of War in North Vietnam for nearly six years and find that I am now not qualified to attend law school under 10 U.S.C. 2004 because I have over six years active duty.

I have made a request to Senator Goldwater that he sponsor private legislation which would enable me to attend law school under the provisions of the aforementioned bill. A suggested draft bill is attached.

I am a regular Air Force Officer having received a regular Air Force Commission as a result of being selected as a Distinguished Graduate Officer of Officer Training School. I received the award as outstanding pilot of my F-4C class in November 1966 and was the honor graduate of the C-141 Flight Training School after my return from North Vietnam. I do now and always have intended to make the Air Force my career. Up until now, I have been a pilot; however, I am presently flying with a waiver due to an injury sustained while in the hands of the North Vietnamese. I am far behind my contemporaries in flying time and experience due to my six years of imprisonment. I earnestly desire to work in a field of endeavor which is of interest to me and of benefit to the Air Force. My extreme interest in attending law school stems from a personal desire not only to receive a higher education, but to better serve the United States Air Force and the United States of America. However, to qualify for law school, I need Congressional action.

I have been accepted for admission at the Cumberland School of Law (copy of acceptance letter attached). I plan to buy a home in Birmingham and make Alabama my permanent residence. I ultimately want to retire there.

I have served my country well and have received numerous decorations. I respectfully request assistance in allowing me to attend law school while on active duty. Please help me enter this law school class.

Thank you very much.

Sincerely,

HENRY P. FOWLER, JR.,
Captain, U.S. Air Force.

CRIMINAL COURT OF
JEFFERSON COUNTY,
Birmingham, Ala., May 16, 1975.

Re Capt. Henry P. Fowler
Hon. JIM ALLEN,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR ALLEN: I am writing you in behalf of my son-in-law Captain Henry P. Fowler. During the past two weeks I have discussed the matters involving Captain Fowler with Miss Conradi of your Birmingham office, and I understand that she has discussed these matters with Mr. Mitchell of your Washington office.

Captain Fowler was a prisoner of war in North Vietnam for approximately six years. He has served his country well and has received numerous decorations including a silver star and two purple hearts. He has been accepted as a law student at the Cumberland Law School for the school year starting in September, 1975. He has received very high recommendations from his commanding officers at Travis Air Force Base, recommending that the Air Force select him as one of those who would be sent to school under the provisions of 10 U.S.C. Number 2004. He nor his superior officers were aware of the fact that his 10 years active duty, including 6 years as a prisoner of war would be such as to prevent his selection. Under the provisions of the above cited law, which is referred to in the Air Force as the "Goldwater Bill", an applicant cannot be selected who has more than 6 years active duty.

Captain Fowler and my daughter intend to make Alabama their permanent home. Captain Fowler is an outstanding young man; has great ability as a public speaker, and has an exemplary record. His father was General Counsel for the United States Chamber of Commerce in Washington, D.C. prior to his death.

I respectfully request that you and Senator Sparkman join in sponsoring special legislation to allow Captain Fowler to attend law school while on active duty. It would certainly appear that it would be grossly unfair to bar him from the opportunity of attending law school because of the fact that he was a prisoner of war for six years.

I am enclosing a Bill which was prepared by the authorities at Travis Air Force Base. I do not know whether or not it is in proper form. Your efforts in his behalf will be greatly appreciated, and we will all owe you a very deep debt of gratitude.

Respectfully yours,

ROBERT W. GWIN,
Judge.

Mr. ALLEN. At any rate, Mr. President, the Senate has been advised of the pendency of this bill, and Senators will understand what is in the bill when it is brought up at a later date.

(At this point, Mr. STONE assumed the chair.)

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

Mr. CULVER. I yield.

Mr. MANSFIELD. Mr. President, I had not determined how I was going to vote on this measure until now because I had to weigh several factors. However, I have reached the point where I intend to support the position of the Senator from Iowa.

I speak as one who served for 5 years as an enlisted man in the armed services—the Army, the Navy, and the Marine Corps—never having achieved a higher rank than private first class.

I think we have to face up to this matter of members of the military services coming into the civilian branches of the Government after they have been allowed to retire, upon the conclusion of 20 years of service, with a retention of a percentage of their pay. They are eligible for the rest of their lives, on a retired status, to have all their medical cares attended to. Many of them take over other jobs. They are described as double-dippers, and I understand that some are even triple-dippers.

When Mr. Butterfield came before the Committee on Commerce in 1973, he said the following:

> Once I learned that special legislation would have little chance of passing the Senate and House and that resolution, one way or the other, would probably take months, I did what I felt I had to do, wrote the letter to Secretary Seamans asking that my name be dropped from the retired rolls. That was nearly a month ago. The issue is now water under the bridge. It should be forgotten.

I think it is about time we face up to our responsibilities under the constitution and reaffirm the principle of the separation of the military from the civilian and the subordination of the military to the civilian in this Government of ours.

I think we have ignored this principle for too long a period of time. Because of the debate this afternoon and the logical arguments advanced by the distinguished Senator from Iowa, I intend to vote in support of what he proposes.

The PRESIDING OFFICER. The amendment of the Senator from Alabama is withdrawn.

The Senator from Nevada is recognized.

Mr. CANNON. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Nevada has 17 minutes remaining.

Mr. CANNON. How much time does the Senator from Iowa have?

The PRESIDING OFFICER. The Senator from Iowa has 3 minutes remaining.

Mr. CANNON. Mr. President, I yield myself 3 minutes. I wish to respond to the distinguished majority leader. I hope I may have his attention, as well as the attention of the Senator from Rhode Island.

We have heard a great deal here about the separation of powers. I wish to make a very brief statement.

After his election as President in 1952, then General of the Army Dwight D. Eisenhower resigned his commission in the U.S. Army. Upon completion of his two terms as President of the United States, he was appointed by President Kennedy to the active list of the regular Army in his former grade of General of the Army. This appointment was made pursuant to Public Law 87–3.

Public Law 87–3 authorized the President of the United States to appoint former President Eisenhower to the active list of the regular Army in his former grade of general of the Army, with his former date of rank in such grade. Public Law 87–3 did not entitle former President Eisenhower to the pay or allowances of a general of the Army, as a former President is entitled to other benefits and allowances provided by statute, which are greater, I may add, than as a general of the Army.

Public Law 87–3 serves as a precedent for S. 182 in that Congress, by special legislation, authorized the President to reinstate the military status of an individual who had resigned his commission to serve in public office—the identical situation here.

In particular, the Eisenhower precedent demonstrates the inappropriateness of the argument that S. 182 constitutes a blurring of the military-civilian distinction and is an undesirable mixture of military and civilian roles. If the President of the United States could be reinstated to his former military status without undermining the distinction between military and civilian roles, then surely, the Administrator of the Federal Aviation Administration can be reinstated to military status without undermining this same distinction.

Mr. MANSFIELD. Will the Senator yield?

Mr. CANNON. I am delighted to yield.

Mr. MANSFIELD. Mr. President, I point out that when General Eisenhower was elected President of the United States, he automatically became Commander in Chief of all the Armed Forces of the United States. Is that correct?

Mr. CANNON. He automatically did and he resigned his commission as general of the Army, of the U.S. Army.

Mr. MANSFIELD. But instead of being general of the Army, he was the Commander in Chief of all of the Armed Forces of the United States.

Mr. CANNON. No doubt about it.

Mr. MANSFIELD. So I do not get the point. Mr. Butterfield was not a commander of anything in his civilian capacity, but General Eisenhower was, under the Constitution, the Commander in Chief of all the Armed Forces of the United States.

Mr. CANNON. There is no doubt about that.

Mr. GARY W. HART. Will the Senator from Nevada yield for a question?

Mr. CANNON. I will yield on his time.

Mr. GARY W. HART. Will the Senator from Iowa yield on his?

Mr. CULVER. I yield.

Mr. GARY W. HART. Was it not the case, in the case that the Senator from Nevada is citing, that General Eisenhower, upon reassuming his military position, did not get dual benefits, that he only got benefits accruing as a result of having been President of the United States and not a general of the Army?

Mr. CANNON. No, that is not completely true. He did get some other benefits. He did not get the pay and allowances of the general of the Army, but he did get military assistants assigned to him as a result of the office staff expense that was made available to him. He had military assistants assigned and paid.

Mr. GARY W. HART. Is the Senator from Nevada suggesting that there is any comparison at all between Mr. Butterfield and President Eisenhower?

Mr. CANNON. Only for the separation of power precedent. We had a military man who resigned his commission and later was reinstated, authorized by Congress. Later, in General Quesada's case, we had a similar situation. So there are precedents.

Mr. GARY W. HART. I thank the Senator.

ALEXANDER P. BUTTERFIELD AND A. E. FITZGERALD

Mr. PROXMIRE. Mr. President, the proposed reinstatement of Alexander P. Butterfield to military status has quite properly been questioned on constitutional grounds. The Constitution, of course, provides for a separation between military and civilian authority and for the principle of keeping the military under civilian control.

As my colleagues, the Senator from Idaho (Mr. CULVER) and the Senator from Colorado (Mr. GARY HART) point out in their dissenting views, the tendency for this fundamental principle to become increasingly obscured is growing.

BUTTERFIELD ABUSED HIS POWER

There is another reason to deny Mr. Butterfield's application for military reinstatement, and one that would cause me to vote against it even if the constitutional question were not at issue.

Mr. Butterfield, while a White House aide, committed what I consider a most serious offense—he abused his power by helping to intimidate, harrass and punish a Government employee for daring to tell Congress the truth about Air Force cost overruns.

Alexander P. Butterfield was at the time the Air Force's man inside the White House who made sure that justice would be denied to A. E. Fitzgerald.

Mr. Fitzgerald was the Air Force official who testified candidly and truthfully to the Joint Economic Committee in 1968 and 1969 on the subject of Air Force procurements including the C–5A. I presided as chairman over those hearings and I know for a fact that Mr. Fitzgerald did what any government employee is obligated to do. He responded to a committee invitation and he testified truthfully.

It so happened that Mr. Fitzgerald's truthful testimony embarrassed some members of the Air Force because they had engaged in a systematic coverup of the truth. For months the facts about the cost overruns and other problems with the C–5A were well known within the Air Force and well hidden from Congress.

After Mr. Fitzgerald's testimony the Air Force coverup artists were exposed and their initial reaction, and one that became an obsession, was to retaliate against Mr. Fitzgerald. Thus began the long and continuing ordeal of A. E. Fitzgerald who is still struggling for his own full reinstatement in the Air Force.

Alexander P. Butterfield became the willing tool of the Air Force inside the White House. From his position of influence Mr. Butterfield extended himself to do the Air Force's bidding by prejudicing his White House superiors against Mr. Fitzgerald.

THE BUTTERFIELD MEMO

On January 20, 1970, Mr. Butterfield sent a memorandum to Robert Haldeman on the subject of A. Ernest Fitzgerald marked "Administratively Confidential." This document reveals so much about Mr. Butterfield's character and the wrongful acts he committed that I want to quote from it at length and then request that it be placed in the RECORD. I hope that my colleagues will reflect upon this memo before the vote.

Mr. Butterfield begins his memo by saying:

> I may be "beating a dead horse" at this late date . . . but it was only a few days ago that Alan Woods called to ask if we had arrived at any particular administration line regarding Mr. A. E. Fitzgerald. And someone else (I can't remember who) asked the same question at about the same time.

This introduction to the subject is significant in light of the date of the memo, January 20, 1970. Mr. Fitzgerald's firing from the Air Force became effective on January 5, 1970, 2 weeks before the memo was written. Why, then, was a White House aide writing a memorandum about a Government employee who was no longer with the Government?

The reason is that individuals within the Government were attempting to find a new position for Mr. Fitzgerald by appealing to the President's sense of fairplay. It was widely understood that Mr. Fitzgerald had been given a raw deal, that he did not deserve to be fired.

One of the persons who had come to this conclusion was Clark Mollenhoff who had been hired by President Nixon as a White House aide to act as a sort of

troubleshooter. Mr. Mollenhoff was supposed to identify potential problem areas inside the Federal Establishment and seek to resolve them so as to avoid public scandals. The controversy over the firing of A. E. Fitzgerald was just such a situation, and Mr. Mollenhoff had made an inquiry into it.

It was Mr. Mollenhoff's judgment that the Air Force was wrong in dismissing Mr. Fitzgerald and that a new place should be found for him within the Government.

The Air Force violently disagreed and took steps to block Mr. Mollenhoff's efforts inside the White House. This was Mr. Butterfield's function, and fearing that efforts to help Mr. Fitzgerald might succeed, Mr. Butterfield did his best to further poison the atmosphere inside the White House.

LOYALTY IS THE NAME OF THE GAME

The memorandum goes on to say:

Fitzgerald is no doubt a top-notch cost expert, but he must be given very low marks in loyalty; and after all, loyalty is the name of the game.

We might stop to consider Mr. Butterfield's characterization of the "game." Undoubtedly he is referring to the conduct of the Federal Government and its management of public affairs. I have always assumed that the name of that game is the public interest. Apparently Mr. Butterfield operated on a different principle. To him, it was not the public interest or the taxpayers that mattered most, it was loyalty. A Federal employee, by Mr. Butterfield's lights, owed his principle responsibility to his employers, rather than to the public. As Mr. Fitzgerald's truthful disclosure had embarrassed his employers in the Air Force, Mr. Butterfield gave him "very low marks in loyalty."

The fact that Mr. Fitzgerald was "a topnotch cost expert" was beside the point to Mr. Butterfield. A Government employee must not only be dedicated to the public interest and competent in his job, he must fit Mr. Butterfield's definition of "loyalty" to entitle him to keep his job. It was irrelevant to Mr. Butterfield that Mr. Fitzgerald was trying to reduce Government waste and save the taxpayers' money.

FALSE CHARGES AGAINST FITZGERALD

The Butterfield memo goes on to say:

Last May he slipped off alone to a meeting of the National Democratic Coalition and while there revealed to a senior AFL–CIO official (who happened to be unsympathetic) that he planned to "blow the whistle on the Air Force," by exposing to full view that Service's "shoddy purchasing practices." Only a basic no-goodnik would take his official business grievances so far from normal channels.

These assertions were incorrect and improper. In the first place Mr. Fitzgerald denies ever attending such a meeting. The conversation that Mr. Butterfield recounts never took place.

Second, Mr. Butterfield refers to an alleged meeting in May 1969, where Mr. Fitzgerald is supposed to have said that he intended to expose the Air Force's shoddy purchasing practices. In fact, by May 1969, many of the Air Force's shoddy purchasing practices had already been exposed.

By May 1969, Mr. Fitzgerald had testified several times before the Joint Economic Committee, the revelations about the C–5A and other weapons cost overruns had been made, and other witnesses had given similar testimony to the Joint Economic Committee and other committees of Congress. It would have made no sense for Mr. Fitzgerald to threaten to do something that had already been done.

Third, Mr. Butterfield was attempting to prejudice the President against Mr. Fitzgerald by linking him to the Democratic Party and organized labor. Even if the alleged connections existed they should not have been considered as justification for hounding a topnotch cost expert out of his job.

LET HIM BLEED AWHILE

The Butterfield memorandum continues:

We should let him bleed for a while at least. Any rush to pick him up and put him back on the Federal payroll would be tantamount to an admission of earlier wrong doing on our part.

What kind of a public servant suggests to the President of the United States that a former Government employee should be allowed to bleed, for a while at least?

Mr. President, I submit that Alexander P. Butterfield committed one of the most grievous offenses that a public official can commit. He abused his power. Mr. Butterfield used his considerable influence as a White House insider to injure wrongfully another individual.

Mr. Butterfield's views of public affairs was that the public interest and the rights of individuals must be sacrificed on the altar of so-called loyalty to his immediate employer. He thereby impunged his own integrity and his own fitness as a public servant. It is my view that Mr. Butterfield disgraced himself and the Federal service as a White House employee, and that he does not deserve to be reinstated in the Air Force. I intend to vote against his reinstatement.

I request unanimous consent to insert in the RECORD at the close of my remarks the text of the memorandum from Mr. Butterfield to Mr. Haldeman.

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

THE WHITE HOUSE,
Washington, D.C., January 20, 1970.

Re A. Ernest Fitzgerald.
Memorandum for: Mr. Haldeman.
From: Alexander P. Butterfield.

I may be "beating a dead horse" at this late date . . . but it was only a few days ago that Alan Woods called to ask if we had arrived at any particular Administration line regarding Mr. A. E. Fitzgerald. And someone else (I can't remember who) asked the same question at about the same time.

You'll recall that I relayed to you my personal comments while you were at San Clemente, but let me cite them once again—partly for the record—and partly because some of you with more political horse sense than I will probably want to review the matter prior to next Monday's press conference.

Fitzgerald is no doubt a top-notch cost expert, but he must be given very low marks in loyalty; and after all, loyalty is the name of the game.

Last May he slipped off alone to a meeting of the National Democratic Coalition and while there revealed to a senior AFL–CIO official (who happened to be unsympathetic) that he planned to "blow the whistle on the Air Force" by exposing to full public view that Service's "shoddy purchasing practices". Only a basic no-goodnik would take his official business grievances so far from normal channels. As imperfect as the Air Force and other military Services are, they very definitely do not go out of their way to waste government funds; in fact, quite to the contrary, they strive continuously (at least in spirit) to find new ways to economize. If McNamara did nothing else he made the Services more cost-conscious and introspective—so I think it is safe to say that none of their bungling is malicious . . . or even preconceived.

Upon leaving the Pentagon—on his last official day—he announced to the press that "contrary to recent newspaper reports" he was not going to work for the Federal Government, but instead, was going to "work on the outside" as a private consultant.

We should let him bleed, for a while at least. Any rush to pick him up and put him back on the Federal payroll would be tantamount to an admission of earlier wrong-doing on our part.

We owe "first choice on Fitzgerald" to Proxmire and others who tried so hard to make him a hero.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CULVER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Michigan (Mr. GRIFFIN), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

I further announce that, if present and voting, the Senator from New York (Mr. BUCKLEY) would vote "yea."

Mr. CULVER. Regular order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order.

The result was announced—yeas 42, nays 47, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—42

Allen	Garn	Scott, Hugh
Bartlett	Glenn	Scott,
Beall	Goldwater	William L.
Bentsen	Hansen	Sparkman
Brooke	Helms	Stafford
Byrd,	Hruska	Stennis
Harry F., Jr.	Huddleston	Stevens
Byrd, Robert C.	Laxalt	Stevenson
Cannon	Long	Taft
Curtis	Mathias	Talmadge
Domenici	McClellan	Thurmond
Eastland	McClure	Tower
Fannin	Percy	Weicker
Fong	Randolph	Williams
Ford	Roth	

NAYS—47

Abourezk	Hartke	Morgan
Bayh	Haskell	Moss
Bellmon	Hatfield	Muskie
Biden	Hathaway	Nelson
Bumpers	Hollings	Nunn
Burdick	Humphrey	Packwood
Case	Jackson	Pastore
Chiles	Javits	Pearson
Clark	Johnston	Pell
Cranston	Leahy	Proxmire
Culver	Magnuson	Ribicoff
Dole	Mansfield	Schweiker
Eagleton	McGovern	Stone
Gravel	Metcalf	Symington
Hart, Gary W.	Mondale	Tunney
Hart, Philip A.	Montoya	

NOT VOTING—10

Baker	Griffin	McIntyre
Brock	Inouye	Young
Buckley	Kennedy	
Church	McGee	

So the bill (S. 182) failed of passage.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the bill failed of passage.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order? Senators will kindly take their seats. The Senate will be in order and the Senators will take their seats.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 o'clock noon tomorrow.

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

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senators will carry their conversations to the cloakrooms or take their seats. The regular order has been called for. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair for attempting to secure order.

ORDER FOR RECOGNITION OF SENATOR JAVITS AND SENATOR EAGLETON AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND CONSIDERATION OF S. 288 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow, Mr. JAVITS be recognized for not to exceed 15 minutes, and that he then be followed by Mr. EAGLETON for not to exceed 15 minutes; after which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 5 minutes each, at the conclusion of which the Senate proceed to the consideration of S. 288.

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

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will take up S. 288, which is Calendar No. 140, and upon the disposition of that bill the intention of the leadership is to move to Calendar No. 141 and then to 142. In the event the House should override the President's veto on the surface mining bill the Senate will then take up that veto message.

Also the Senate may proceed with the beginning of debate on the military procurement bill tomorrow. There will be no rollcall votes on that measure tomorrow under the agreement previously entered. Whether or not there will be rollcall votes on other measures or conference reports that may be called up, among which is the conference report on the supplemental appropriation bill, remains to be seen.

Mr. ROBERT C. BYRD subsequently said: Mr. President, in my outline of the measures that were to be taken up tomorrow, and I stated it was the intention of the leadership to take up three measures in succession, I retract that statement of intention so that the measures that were stated would be of a tentative nature only.

Mr. GOLDWATER. I appreciate that because one of those measures originated in the House and applies to legislation I worked on for 18 years. This is the first I heard of it or have seen of it.

While reading, it does not look like it does much, but I would like to have my staff look at it.

Mr. MANSFIELD. Will the Senator yield?

It is subject to the Senator's wishes tomorrow, and he will notify either the assistant majority leader or the Senator from Montana, now speaking.

Mr. GOLDWATER. I appreciate that very much.

EMERGENCY TECHNICAL PROVISIONS ACT

Mr. ROBERT C. BYRD. Mr. President, at this time I ask unanimous consent to proceed to the consideration of a measure on the calendar that has been cleared on both sides of the aisle, Calendar Order No. 137.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4221) to amend the Higher Education Act of 1965, as amended, relative to the reallocation of work-study funds, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Emergency Technical Provisions Act".

AVAILABILITY OF FUNDS FOR COLLEGE WORK-STUDY PROGRAMS

SEC. 2. That part of the funds appropriated by Public Laws 93-192 and 93-517 for the work-study program authorized under part C of title IV of the Higher Education Act of 1965 which has been granted to an eligible institution and which exceeds the amount needed by such institution to operate a work-study program during the period for which such funds are available shall become available to the Commissioner of Education for making grants to other eligible institutions within such State until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

INTERPRETATION OF SECTION 414 OF THE GENERAL EDUCATION PROVISIONS ACT

SEC. 3. In the case of any statutory advisory council (as defined in section 441 of the General Education Provisions Act) which submits an annual report to the Congress or to the President concerning the administration of an applicable program (as defined in section 400 of such Act), section 414 of such Act shall be construed to extend the duration of such advisory council whenever such section 414 operates to extend the duration of the program with respect to which such advisory council submits such a report.

DURATION OF EDUCATION ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

SEC. 4. Section 716(b) of the Emergency School Aid Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "September 30, 1976".

AVAILABILITY OF BASIC EDUCATIONAL OPPORTUNITY GRANTS

SEC. 5. Funds appropriated for making payments of basic educational opportunity grants, during fiscal year 1975, under subpart 1 of part A of title IV of the Higher Education Act of 1965 to eligible students in accordance with the payment schedule in effect under section 411(b) for fiscal year 1975 which are in excess of the amount paid under such section prior to the end of such fiscal year shall remain available for payments under such section during fiscal year 1976.

EFFECTIVE DATE

SEC. 6. (a) The provisions of this Act shall be effective upon the enactment of this Act.

(b) Subsections (b) and (d) of section 431 of the General Education Provisions Act shall not operate to delay the effectiveness of regulations issued by the Commissioner of Education to implement the provisions of this Act.

Mr. ROBERT C. BYRD. Mr. President, is it one amendment or more amendments?

The PRESIDING OFFICER. One amendment to the bill and one amendment to the title.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended to read as follows:

An Act relating to the operation of certain education laws.

Mr. JAVITS. I would ask the majority whip on a motion to reconsider whether he wants this finalized on the education bill.

Mr. ROBERT C. BYRD. I have no feeling one way or the other.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HUGH SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. HUGH SCOTT. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HUGH SCOTT. The Senator has made reference to the conference report on the supplemental appropriations bill. As I understand, if that comes up tomorrow it will be voted on. Has the Senator referred to any other probable or possible votes tomorrow?

Mr. ROBERT C. BYRD. It is my understanding that the conference report on the refugee bill has been agreed to today, and we may very well have that conference report up tomorrow.

Mr. HUGH SCOTT. If we dispose of both the conference reports is there other legislation planned for final action this week so far?

Mr. ROBERT C. BYRD. Not beyond the measures that I have outlined, may I say to the distinguished Republican leader, to my knowledge.

The majority leader and I have consulted about this, and I have stated about everything that we can see as of now.

Mr. HUGH SCOTT. I thank the distinguished assistant majority leader.

TIME LIMITATION AGREEMENT—S. 323

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, this request having been cleared on the other side of the aisle, that at such time as S. 323 is called up and made the pending business before the Senate, and this will not occur until after the Memorial Day holiday, there be a time limitation for debate on the bill of 1 hour to be equally divided between Mr. Moss and Mr. PEARSON; that there be a time limitation on an amendment by Mr. PEARSON of one-half hour; that there be a time limitation on any other amendment of 30 minutes; a time limitation on any debatable motion or appeal, or point of order, if such is submitted to the Senate for its discussion, of 20 minutes; and that the agreement be in the usual form.

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

FURTHER ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a further period for the transaction of routine morning business.

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

METCALF URGES SENATE TO OVERRIDE STRIP MINING VETO

Mr. METCALF. Mr. President, I was deeply disappointed that President Ford has once again vetoed the surface mining legislation which Congress has worked on so long and so hard. My disappointment was compounded when I read the President's veto message.

The President's professed reasons for finding the bill unacceptable are inaccurate and, indeed, almost dishonest.

For example, he states that as many as 36,000 people would lose jobs. In February, then-Secretary of the Interior Rogers C. B. Morton told the House Interior Committee that enactment of surface mining legislation would result in a net gain of employment.

The President states that consumer costs—particularly for electric bills—would go up.

One of his objections has been that Congress has not rolled over and played dead on his recommendations for an omnibus energy bill which will increase the price of electric energy to the consumer by more than $10 billion. A Massachusetts paper has described this proposal as the greatest "ripoff" in utility history. The attorney general of Michigan, Frank J. Kelley, has described this portion of the President's energy program as a transfer of the benefits of the tax reduction bill, including the tax rebates, from the consumers of America to the utilities. Yet the President suggests that requirements for reclamation of mined land would be an intolerable cost to electric consumers. I would suggest that most of the electric consumers in America would rather pay for reclamation and restoration of stripped lands in their electric bills than pay for automatic fuel adjustments clauses, putting construction work in progress in the rate base, and absolute exemption from taxation or regulation for the utilities of America.

Congress has rejected a good deal of President Ford's energy program because it is expensive, it is solely designed to swell the profits of the oil and energy barons, and it is not designed for a long-term program of energy legislation.

I am sure that the price of coal will increase somewhat when those costs, which are now being paid by society in the form of polluted water, ravaged land, and loss of high-quality agricultural land, are made a part of the cost of doing business for the coal industry. However, these costs will be a minuscule part of utility bills—probably not more than 50 cents a month for an individual with a high electric consumption. Surely this is a small price to pay for the environmental protection which H.R. 25 would provide.

The President also cites large losses of coal production amounting to 140 to 162 million tons in 1977. These estimates have never been explained by the Federal Energy Administration or the Interior Department. They have not identified which provisions of the bill cause the problem or why the reclamation standards could not be met. The President points out that the bill which he sent to the Congress in February would have entailed production losses of up to 80 million tons. However, he now indicates that his support for his own bill was contingent upon enactment of his comprehensive energy program which involved dramatic price increases for oil and natural gas. Increases which far exceed any price increases for coal resulting from enactment of H.R. 25.

The President goes on to refer to problems which might be caused by "ambiguous, vague, and complex provisions." It appears to me that his fears on this score are much more vague and ambiguous than the provisions he complains about.

The President is also concerned about the Federal Government's enforcement role during the initial implementation of the act. The legislation makes it clear that the primary enforcement responsibility lies with the States. The Federal Government's role is simply that of a watchdog. If the State laws, which the President lauds, are so effective then the Federal watchdog will seldom have to bark.

The President's next complaint lies against the reclamation fee which he believes is "excessive and unnecessary." Apparently he does not want to have the millions of acres ravaged by strip mining in the past restored nor does he want to provide aid to State and local governments faced with rapidly increasing costs for government services in areas where coal mining is expanding.

Finally, the President refers to potential windfalls to private landowners in connection with reclamation of previously mined land. His statement that the bill would permit the Federal Government to pay private landowners 80 percent or more of the cost of reclaiming such lands is very misleading. The bill expressly provides that the Government would pay less than 80 percent where the reclaimed lands would be worth more than they were prior to reclamation. Furthermore, the entire payment program is discretionary so that if the President did not wish to use it, he would not have to do so.

Mr. President, the Congress has worked for 4 years to develop surface coal mining legislation which achieved a reasonable balance between the need to develop our national coal resources and protect the other values of the lands involved. H.R. 25 strikes such a balance. Unfortunately, the President's veto message leads me to conclude that his idea of balance is to continue to allow the coal companies—many of whom are owned or controlled by big oil companies—to continue business as usual. The Nation cannot tolerate this. The Congress must override the President's veto so that we can get on with the business of mining the coal we need in a way which protects the environment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

UNANIMOUS-CONSENT AGREEMENT—S. 920

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the other side of the aisle and with Mr. STENNIS.

On behalf of Mr. JACKSON, I ask unanimous consent that two amendments to the military procurement authorization bill may be in order regardless of their germaneness. Mr. STENNIS explained to me, and so did Mr. JACKSON, that Mr. STENNIS had suggested to Mr. JACKSON that if those two amendments were not called up in committee for disposition there that Mr. JACKSON would have the opportunity to call them up on the floor during the debate on the military procurement authorization bill. Inadvertently no mention was made of the two amendments last week when we entered into the agreement on the military procurement bill.

Therefore, at the request of Mr. JACKSON and with the approval of Mr. STENNIS, I ask unanimous consent that the following two amendments be in order, regardless of germaneness: The extension of section 501 of the Defense Procurement Act of 1970, and DOD remedies for discrimination in petroleum procurement.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will meet tomorrow at the hour of 12 o'clock noon.

After the two leaders or their designees have been recognized under the standing order, Mr. JAVITS will be recognized for not to exceed 15 minutes, after which Mr. EAGLETON will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with Senators permitted to speak not in excess of 5 minutes each during that period.

As to the program for tomorrow, upon the conclusion of routine morning business the Senate will take up S. 288, a bill to amend the Land and Water Conservation Fund Act of 1965 so as to authorize the development of indoor recreation facilities in certain areas.

It has been indicated that the Senate also may take up S. 1123, a bill to establish the Indian Nations Scenic Trail; and it is possible H.R. 4109, an act to amend the Grand Canyon National Park Enlargement Act may be called up, but that is not definite at this time.

Other than that, it is hoped that the tion of the Senate. The conference reappropriation bill will be ready for action of the Senate, the conference report on the refugee bill is expected to be ready for final disposition in the Senate.

Other conference reports, being privileged matters, may be called up. Other measures that may have been cleared for action by tomorrow could, of course, come up. Rollcall votes could occur.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:50 p.m. the Senate adjourned until tomorrow, Wednesday, May 21, 1975, at 12 noon.

HOUSE OF REPRESENTATIVES—*Tuesday, May 20, 1975*

The House met at 10 o'clock a.m.

Msgr. James P. Cassidy, director of hospitals and health, Archdiocese of New York, offered the following prayer:

O Heavenly Father, Lord of all nations and Father of all people, we ask Your blessings upon all who rule over us in Your place.

Grant that they may exercise their office with wisdom and justice. Bless them too with the courage to ignore their own selves in being aware and sensitive to the needs of all the people they have been elected to serve.

Grant that all people may be aware of their responsibilities and strive to fulfill them with the help of Your Holy Spirit.

Grant that they may always strive for the freedom and liberty of all people, and today on Cuban Independence Day, especially for the people of the Cuban nation.

Grant that the more longingly we look forward to the life of Heaven, the more fully we strive to better ourselves and this world which You have created.

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. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4269. An act to amend the Organic Act of Guam and the Revised Organic Act of the Virgin Islands.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 846. A bill to authorize the further suspension of prohibitions against military assistance to Turkey, and for other purposes.

MIDDLE EAST NEGOTIATIONS

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

Mr. ADDABBO. Mr. Speaker, the President of the United States will meet with Egypt's President Anwar el-Sadat in Salzburg, Austria, on June 1 and those discussions may shed light on the chances for a peace settlement in the Middle East. As this important meeting and other discussions of a Geneva Conference on the Middle East take place, it is imperative that the United States clarify our policy in this troubled area and that we reflect on our military and economic assistance programs in the Middle East.

The recent reports that Egypt would request a U.S. loan to be used to repay the Soviet Union have been denied by sources close to President Sadat and that is welcome news, however, the fact remains that the United States is now considering loans of more than $350 million to Egypt, an increase of $100 million over last year. That loan fund frees other moneys which can be used for military weapons and I urge President Ford to consider the loan request in that light as he prepares to meet with Sadat.

The settlement of the Middle East situation has always depended on the basic recognition by the Arab nations that Israel is a sovereign state with all the basic international rights which that sovereignty implies. This continues to be the necessary first step in arriving at a reasonable solution. The United States must also protect Israel's right to defend herself by preserving borders which can be defended. The Arab nations are emphasizing solidarity on the eve of the Ford-Sadat meeting and the solidarity which Israel needs is the knowledge that the United States will reaffirm our friendship and understanding of the needs of the one democracy in the Middle East surrounded by neighbors dedicated to her destruction.

We cannot prove ourselves to be the leader of the free world by policies which endorse the sale of Hawk missiles to Jordan while we claim to support policies designed to ease tensions in the Middle East. Tensions are increased by such actions and they can only be reduced by convincing the Arab nations that we will stand by Israel in the event she is attacked.

The upcoming talks are important for these reasons and also because they can lead to a productive Geneva Conference. I wish President Ford well in his efforts and I urge my colleagues in the House to express themselves to the President and the Secretary of State on these issues which hang over the nations of the Middle East as well as other nations who realize the significance of war or peace in the Middle East to the rest of the world.