those successes because the incentives are so vastly different between entrepreneurship and inventiveness on one hand and Government programing on the other.

The great advances of civilization—whether in agriculture or painting, in science or literature, industry or agriculture—have never come from centralized government.

Newton and Leibnitz, Einstein and Bohr, Shakespeare and Pasternak, Whitney and McCormick, Edison and Ford, Jane Addams and Florence Nightingale. Not one of these opened new frontiers in human knowledge and understanding in response to government directives. Their achievements were the product of individual genius, of strongly held minority views, and of a social and economic climate permittng variety and diversity. Centralized setting of objectives and means to achieve them—inherent to centralized government—thwart that genius, those minority views, and that climate of opinion and expression.

This point was brought to our attention quite graphically in the July issue of Readers Digest. In article illustrating the great successes of American business ingenuity—which produces jobs and a high standard of living for the work force—we are shown that the American success story of "rags to riches" is so commonplace we hardly pay it a second notice. Yet, unless we nurture that creativity through assuring Government forces will not interfere with it, we run the risk of losing it. And, a decline in our economy, and a loss of jobs would be inevitable.

This article, prepared by the Business Roundtable, follows:

AMERICA'S AMAZING SUCCESS MACHINE

Is there an American dream? Inventor Nathan Zepell thinks so. In fact, he says he's *living* it—in a sun-flooded, spacious home on a mountainside overlooking Santa Barbara, Calif. Chances are that you have used one of Zepell's creations. More than 100 million of his pens have been sold under various names all over the world.

But Zepell's dream began with a nightmare.

It was the end of World War II. His name then: Nathan Zepelovitch. Home: Riga, Latvia. Age: 29. Weight: 87 pounds. Last address: Buchenwald concentration camp. Family: all killed by the Nazis. His house and his small furniture hardware factory: destroyed in the war.

In 1949, Zepell arrived in the United States—in his head the ideas he had nurtured since his teens to improve man's writing instruments. Worn and hungry, the immigrant walked the streets of New York, bewildered by waiting endlessly in outer offices. Initially, he knew only two words of English—"all right." But things weren't all right. Time after time, representatives of pen companies told him that there wasn't a new idea about pens not already checked out. There were already 10,000 pen patents registered in Washington, D.C., including the original ballpoint patent of 1888. "Give this up, Nathan," an attorney friend told him. "Get a job and start eating again."

But Zepell wouldn't give up. Finally, after nine years, Columbia Pen and Pencil Co. listened to the intense, handsome man with the idea for a ballpoint "pen that remembers." To fasten the pen in your pocket, you had to snap the clip outward from the barrel, which automatically retracted the ballpoint, thus preventing ink stains on your shirt.

The pen caught on almost immediately, and Nathan Zepell was on his way. "It wasn't just a matter of the invention; it was a matter of America," he says. "I could have invented the pen anywhere, but where else could I find a market like this and rewards so great?" Now he has secured 28 patents, including a flat plastic ballpoint that writes in two colors and serves as a bookmark.

If Nathan Zepell's life story is inspiring, it is also somewhat familiar. The term "rags to riches" is a cliché to the average American—because it's so true, so possible. It's the upward way traveled by many a person who has thought of some new or better way to benefit the public. There's no guarantee it will be easy, no guarantee against jolting failure; but our system's inherent faith in people and their ideas has paid off—not just for the Thomas Edisons and Henry Fords of the past but for uncounted Nathan Zepells of today.

The payoff ripples through the entire economy, affecting consumers, workers, everyone. New ventures or inventions mean new factories, the creation of new jobs, new homes and businesses, and often a real enhancement of our way of life. Ultimately, America's economic magic depends on men who are free to create and are given the prospect of generous rewards.

Some outstanding examples of success:

Byron Godbersen started on his way to a fortune because the hydraulic hoist on his farm wagon was too heavy and inefficient. He designed and built a lightweight hoist with an ingenious "movable fulcrum." Other farmers wanted "one just like it," and Midwest Industries was born in 1954. The company, in Ida Grove, Iowa, does an annual business of $10 million in farm machinery and marine products. And Byron Godbersen is rich beyond any dreams he might have had when he set out to make farming a little easier—for himself and others.

Irvin Robbins and his brother-in-law, Burt Baskin, went into business in 1947 with a modest ambition: "We wanted to make 75 bucks a week, and enjoy ourselves doing it." Thus were born the little California ice-cream stores that would become Baskin-Robbins. Their business credo: stick to ice cream only, offers a variety of flavors and *never* compromise on quality. Soon the partners were selling stores to reliable managers, taking royalties for supplying the ice cream and promoting the name. An ice-cream empire of more than 1500 shops developed. Baskin died in 1967. Millionaire Robbins looks after B-R franchises and devotes much time to encouraging young people to plunge into "the most amazing and rewarding business system ever devised."

The list could go on endlessly: A New York woman who scraped together a few thousand dollars, to found what is now a major chemical company.

A plasterer from Atlanta's black ghetto who is today a contractor, banker and part owner of professional basketball and hockey teams. Two former college roommates, in their twenties, who pooled their savings five years ago to build what is now a $12-million-a-year business, designing and making casual clothes for the booming youth market. A secretary in Texas who devised a way to "paint out" typing errors, started the Liquid Paper Company, and not only made her fortune but made work easier for millions of secretaries.

Curious thing—people like these seldom set out to "make a million." Their success comes on the wings of ideas—to create something new, build something better, provide some fresh service. Maybe it's as basic as a reliable pen or improved farm machinery. Or maybe it's something that simply makes life a little more fun, like ice cream. But success results because people's needs and desires are fulfilled.

Kemmons Wilson, traveling with his family, wasn't at all happy about their overnight accommodations. Why shouldn't the average traveler be able to find clean, dependable, comfortable lodging at a reasonable price wherever he goes? Wilson answered the question himself, with a concept called Holiday Inns. In the process he revolutionized the motel business.

Such stories happen all the time in this American system that John Davenport in his book, *The U.S. Economy*, calls "a continuous and living development where one competitive breakthrough leads to another." Between 1963 and 1973, the number of new U.S. businesses incorporated each year climbed from 186,000 to 330,000. Failures? There are some—certainly. But thousands do succeed—not necessarily paying off in millions, but as solid, viable businesses. The former waiter who starts his own restaurant; the lathe operator who founds a small machine-tool company; the widow whose small bookstore expands into a healthy stationery and office-supply firm. And each success has an influence beyond itself—a chain reaction of jobs and opportunities that is in the end the greatest asset of a sound economy.

Even as you read this, new inventors and business innovators are plugging into our amazing economic machine. They all have one thing in common; they don't think "it's all been done" yet. They make the American dream come true every day.

SENATE—*Wednesday, June 25, 1975*

(Legislative day of Friday, June 6, 1975)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina.

PRAYER

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

O God our Father, we beseech Thee to help us through this day that we may bring help to others, be a credit to the Nation, and ever honor Thy name.

Keep us from impatience, from irritability, frustration or despair.

Help us ever to love Thee, to keep Thy law, to be loyal to our ideals, and steadfast in our convictions.

Help us to be cheerful when things go wrong, persevering when things are hard, serene when things are disturbing.

May each duty, great or small, be done to Thy glory so that work becomes worship.

Grant us through this day something of the grace and beauty which shone through the Master, and at night grant

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us the peace of those whose minds are stayed on Thee.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 25, 1975.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ERNEST H. HOLLINGS, a Senator from the State of South Carolina, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, June 24, 1975, be approved.

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

COMMITTEE JURISDICTION IN THE ENERGY AREA

Mr. MANSFIELD. Mr. President, I have had some informal meetings with the distinguished Republican leader about the possibility of achieving, in time, a single energy committee in the Senate.

I have been instructed by the Democratic Conference to hold these informal meetings with the distinguished Republican leader (Mr. HUGH SCOTT) for the purpose of seeing what could be done in the future to create a single committee on energy in the Senate.

The genesis behind this idea is that the responsibility and the authority covering energy encompasses a number of committees and subcommittees. I point out that on yesterday the distinguished Republican leader placed in the RECORD a letter which he had received from Mr. H. Hollister Cantus, Director of the Office of Congressional Relations for ERDA.

In that letter, according to their estimates, the list of committees to which ERDA is subject and committees which have claims on ERDA, totals 33 committees, 65 subcommittees, and 1 panel.

The letter continues:

As of this date—

And the letter is dated June 3—

ERDA witnesses have testified for 109 hours of formal hearings before 6 Full Committees and 27 Subcommittees of 13 different committees. Also of note is the fact that ERDA is only 135 days old, having been activated on January 19, 1975.

Something has to be done about a realinement of the situation which confronts us in this body today, and something has to be done in time, because as time goes on energy is going to become a more and more dominant and important issue.

Mr. President, I ask unanimous consent to have printed in the RECORD the article by the distinguished Republican leader (Mr. HUGH SCOTT) entitled "Committee Jurisdiction in the Energy Area," and also an editorial in today's New York Times entitled "Congress' Oil Jungle."

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

COMMITTEE JURISDICTION IN THE ENERGY AREA

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD a letter and attachments sent to me by H. Hollister Cantus, Director of the Office of Congressional Relations at the Energy Research and Development Administration.

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

U.S. ENERGY RESEARCH
AND DEVELOPMENT ADMINISTRATION,
Washington, D.C., June 3, 1975.

Hon. HUGH SCOTT,
Minority Leader, U.S. Senate, Washington, D.C.

DEAR SENATOR SCOTT: I was out of town last week when you indicated your desire to see the Senate reorganize its committee jurisdiction in the energy area. I want to take this opportunity to express my personal support for that recommendation.

For your information, I have attached a list of the Congressional Committees which could make some jurisdictional claims upon the Energy Research and Development Administration. According to our estimates, the list presently totals:

33 Committees.
65 Subcommittees and
1 Panel.

As of this date, ERDA witnesses have testified for 109 hours of formal hearings before 6 Full Committees and 27 Subcommittees of 13 different committees. Also of note is the fact that ERDA is only 135 days old, having been activated on January 19, 1975.

I trust this information is of interest to you. If there is anything I can do to be of assistance to you, please do not hesitate to call.

With sincere best wishes, I remain
H. HOLLISTER CANTUS,
Director, Office of Congressional Relations.

Enclosure.

COMMITTEES OF CONGRESS HAVING SOME JURISDICTIONAL CLAIM OVER ERDA
(*Indicates ERDA witnesses appeared this year)

A. SENATE

1. *Aeronautical and Space Sciences
2. Agriculture and Forestry
a. Environment, Soil Conservation, and Forestry
3. Appropriations
a. Defense
*b. Interior
c. Public Works
4. Armed Services
a. Arms Control
*b. Research and Development
5. Banking, Housing and Urban Affairs
a. Small Business
b. Housing
6. Budget
7. Commerce
a. Environmental
b. Oceans and Atmosphere
c. Oil and Gas Production and Distribution
*d. Science Technology and Commerce
e. Surface Transportation
8. Finance
a. Energy
b. International Trade
c. International Finance and Resources
9. Foreign Relations
10. Government Operations
*a Ad Hoc Subcommittee on Export Reorganization
b. Intergovernmental Relations
c. Investigations
*d. Oversight Procedures
11. *Interior and Insular Affairs
*a. Energy Research and Water Resources
b. Environment and Land Resources
c. Minerals, Materials and Fuels
d. Integrated Oil Operations
12. Judiciary
a. Patents, Trademarks and Copyrights
13. Labor and Public Welfare
a. Health
14. Public Works
a. Environmental Pollution
(1) Panel on Environmental Science and Technology
b. Buildings and Grounds
c. Water Resources
15. Select Committee on Intelligence Activities
16. *Select Committee on Small Business
a. Environmental, Rural and Urban Economic Development

B. JOINT COMMITTEES

17. *Atomic Energy
*a. Agreements for Cooperation
*b. Communities
c. ERDA, Environmental and Safety
d. ERDA, Nuclear Energy
*e. Legislation
f. National Security
*g. Ad Hoc Subcommittee on Breeder Reactors
18. *Economic
19. Printing

C. HOUSE COMMITTEES

20. Agriculture
a. Conservation and Credit
21. Appropriations
*a. Defense
*b. Interior
*c. Public Works
22. Armed Services
a. Research and Development
*b. Seapower and Strategic & Critical Materials
23. Budget
24. Government Operations
*a. Conservation, Energy and Natural Resources
b. Intergovernmental Relations and Human Resources
c. Legislation and National Security
25. Interior and Insular Affairs
*a. Energy and the Environment
b. Mines and Mining
c. Water and Power Resources
26. International Relations
a. Future Foreign Policy, Research and Development
b. International Organizations
c. International Resources, Food, and Energy
d. International Trade and Commerce
27. Interstate and Foreign Commerce
a. Energy and Power
b. Health and Environment
*c. Transportation and Commerce
28. Judiciary
a. Administrative Law and Governmental Relations
29. Merchant Marine and Fisheries
a. Fisheries and Wildlife Conservation and the Environment
30. Public Works and Transportation
a. Public Buildings and Grounds
*b. Surface Transportation
31. *Science and Technology
*a. ERDD
*b. ERDD (Fossil Fuels)
*c. Environment and the Atmosphere
d. Science, Research and Technology
32. Small Business
a. Energy and Environment
33. Select Committee on Intelligence

[From the New York Times, June 25, 1975]

CONGRESS' OIL JUNGLE . . .

The performance of the House Democrats in scuttling their own efforts at a coherent and equitable energy policy, including the key gasoline tax and rebate plan, reflects an extraordinary paradox. Few Congressmen have shown the political courage to impose a gas tax or other necessary belt-tightening on their constituents yet, instead of staying away from the issue, most have insisted on a piece of the action.

In the twenty months since the Arab oil embargo, energy has become the hottest game in Washington and a good way to get a politician's name into print. An amazing number of Senate and House committees and subcommittees have pushed themselves into the talkfest, taking up a vast amount of time of Administration policy-makers and many other experts—only to frustrate the kind of action that is needed.

So far this year, top officials of the Energy Research and Development Agency—and much the same is true of the Federal Energy Agency—have had to testify before eleven subcommittees of the House and a similar number in the Senate. They have had to appear before the House Appropriations Subcommittees on Defense, on Interior and on Public Works; the Armed Services Subcommittee on Seapower, the Government Operations Subcommittee on Conservation, Energy and Natural Resources; the Interior Subcommittee on Energy and Environment; the Commerce Subcommittee on Transportation and Commerce; the Public Works and Transportation Subcommittee on Surface Transportation; the Science and Technology Subcommittees on Energy Research and Development Demonstration, on Fossil Fuels and on Environment and the Atmosphere.

All in all, 14 House committees and 28 subcommittees, 16 Senate committees and 30 subcommittees, three joint Congressional committees and seven subcommittees claim some jurisdiction over E.R.D.A. alone, as Representative Rhodes of Arizona, the minority leader, has noted. The House committees, in addition to those above, include Agriculture, Budget, International Relations, Judiciary, Merchant Marine and Fisheries, Small Business and the Select Committee on Intelligence. Administration energy proposals have also been pending before such other House committees as Ways and Means, Banking and Currency, Housing and Rules.

This jurisdictional jumble undoubtedly is an important factor in the inability of the Congress to act comprehensively on one of the nation's most pressing problems. Mr. Rhodes' bill to establish a single House energy committee—or, even better, a joint Congressional committee for both houses—is one obvious solution. It already has the backing of the Senate majority and minority leaders. What is lacking is the agreement of the House majority leadership, which ought to be helping to clean up the mess at the Capitol that now is discrediting the Congress and injuring the country.

CRIME: THE VICTIM AND THE GUN CONTROL

Mr. MANSFIELD. Mr. President, last week the President expressed his views on crime in America and how he intended to deal with it. I read his message with interest and choose now to make a few observations on some of the issues raised.

Included in his remarks, to begin with, was an emphasis on the criminal victim, on the plight of those most directly affected by violence—"the poor, the old, the young, the disadvantaged minorities, the people who live in the most crowded parts of our cities." To them is owed, said the President, "protection and personal safety"—measures they cannot provide for themselves.

In this fashion the President has advocated revising the criminal justice system; changing it so as to take into account the needs of the victims of crime. He urges us—here in Congress—to pass legislation to meet the uncompensated economic losses of victims through a fund provided by fines imposed against convicted offenders.

May I say, Mr. President, that insofar as the U.S. Senate is concerned, these words of the President expressed in behalf of the victim were uttered not a moment too soon. Indeed, five times in the past has the Senate responded to the victim's plight. On five past occasions the Senate expressed this same deep concern for the neglected member of the criminal justice system—the victim.

Five times the Senate voted overwhelmingly to compensate the economic losses of those ravaged by crime and violence in our society. There was the Victims of Crime Act of 1970; the Victims of Crime Act of 1971; the Victims of Crime Act of 1972; the Victims of Crime Act of 1973; and the Victims of Crime Act of 1974. All recognized the special needs of the victim. All would have compensated his personal suffering and loss. All passed the Senate of the United States. This year, there is the Victims of Crime Act of 1975—S. 1399—now pending before the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary.

What has the Senate said with this record and what is the President saying by at long last endorsing it?

One thing that is said, of course, is that society has failed utterly in its efforts to provide protection and personal safety. Your chances of being mugged, robbed, raped, assaulted, or murdered are pretty good—about 1 in 250 by conservative estimate, as much as 1 in 50 by more realistic appraisal. If you are poor, they are even better.

What recourse have you? About all you can do is sue your assailant—the one who fractured your skull, slit your throat, or blinded or paralyzed you. But to do that you have to catch him. And even if you do, what are the prospects for recovery? Less than 2 percent according to one study.

The bill passed so often by the Senate would have remedied this. The concept embraced last week by the President would remedy this. His views are in accord with the provisions of S. 1399 which will come before the Senate later this year.

As one who long ago singled out the criminal victim for legislative concern and attention, I applaud the President for aiding this effort. I look forward to the remainder of this session of the 94th Congress encouraged by the increased prospects for restoring the criminal victim to his proper place within our system of criminal justice and in doing so, for translating what is now citizen apathy and disinterest into citizen concern for crime and violence.

Aside from focusing on victims for "primary concern," the President advocated additional approaches to crime particularly insofar as the criminal defendant is concerned. Among these is a concept which I have long embraced. It relates specifically to the gun criminal—to stricter sentences that would guarantee his incarceration. Some years ago I authored a mandatory sentencing provision to be invoked against those who chose to resort to a gun in committing a crime.

The act itself of using or carrying a gun became a crime and if found guilty, the perpetrator was compelled to face prison. In the case of second offenders, the sentence was not to be suspended, nor was the gun sentence to be imposed concurrently with the sentence meted out for the underlying crime. That is the law today. Insofar as those who carry guns and other deadly weapons are concerned, it is a correct approach.

It says to perpetrators of violence that their mere act of selecting such a weapon is wrong and will be punished no matter what. No ifs, ands, or buts will stand in the way of punishment. Particualrly in cases of second offenders is this notion so compelling. In his case there is no room for discretion, there can be no argument based on immaturity, ignorance or whatever. The second or subsequent gun offender is a threat, a danger to society. He did not learn. He made that clear by choosing a gun for his crime not once but twice or more.

So I sympathize with stricter sentencing concepts, particularly as they relate to gun criminals. What I would like to know but cannot seem to ascertain, however, is the experience to date under current stricter sentencing laws—under the mandatory sentencing provisions now on the books. To this end I have written the Department of Justice, I have written to the Federal Judicial Center and to the Administrative Office of the U.S. Courts.

The response to each of these requests has indicated that no such records are retained on the mandatory sentencing sections of the Criminal Code. There is no way to determine, I am informed, how many defendants have been indicted under the gun-crime sections, how many have been convicted, how many have received the stricter sentence, how many the mandatory sentence, and so forth. There is simply no facility within our Federal Government—I am led to believe—that retains this detailed experience record. This is rather startling.

We are so quick to make sweeping generalizations about judges being too rough or too lenient or both. We are so ready to conclude that criminals are deterred or not deterred by sentencing factors. Even the Attorney General has entered this dialog and yet when I requested a breakdown to prove or disprove these questions, I was advised that no relevant data in these areas has been compiled or retained by the Department of Justice.

From this, it appears that a very wide gulf exists in our criminal justice system; a gulf widened by our neglect in failing to draw upon past experience—of analyzing who commit crimes and why, who are found guilty, who serve sentences, who do not, who are repeat-

ers, who are not, who use weapons, who do not, and what role judges play in all of this. But these are the questions that must be answered if we are ever as a nation going to begin to resolve the issues of crime, of deterrence and recidivism. Most assuredly the identities of those involved must be guarded with the utmost vigilance. But that is not to say that modifications are not required in our information system as it relates to crime to the end that a better and more practical experience table is obtained in order to provide a more rational basis for all of our decisions.

The need for such information, however, does not diminish, in my judgment, the need to protect society from the gun criminal. He is a danger, per se. And it is to him again that I turn with a suggested modification of the Criminal Code—on that would apply solely to the offender whose choice to use a weapon alone would be singled out for special punishment.

INTRODUCTION OF S. 2005

Mr. President, I send a bill to the desk, and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks. This proposal would permit the preventive detention of a gun carrier who is adjudged a threat to society. This measure would apply to the gun user before trial. It would address the problem of pretrial recidivism—to the repeater who uses his weapon for crime before he is tried for his initial wanton act of violence or while he appeals his conviction. Specifically, in cases where an offender is charged with carrying or using a firearm in the commission of a crime, the judge, under this proposal may find that the defendant poses a threat to the community and order him detained.

In my judgment, one who is found with a weapon during an alleged offense is violent and represents a threat to the community. That is the message which I seek to convey with this proposal. It is the message that guns are tools of violence and that those who resort to guns for criminal actions deserve little leeway. Nor do I believe that such a provision would lie outside the framework of the eighth amendment to the Constitution. There it is prescribed only that—and I quote—"Excessive bail should not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

Surely, to detain a gun offender before trial because he poses a genuine threat to his fellow citizens is not unreasonable. I might point out, too, that notions of so-called preventive detention have already been enacted insofar as they relate to criminals within the District of Columbia. This bill would narrowly extend the concept to the Federal criminal system.

As drafted, it may be that the measure contains certain impediments; that the procedural protections of due process should be spelled out more fully. I will leave it to the normal distillation and refining process of the legislative system to correct any such impairments. My intention is clear. It is to continue to promote and shape a consistent national policy against gun violence and gun offenders. This proposal would provide an additional element in that policy.

Finally, Mr. President, crime in America must be continually addressed. The President has sought to do just that and is to be commended for highlighting so specifically the neglected criminal victim. Speaking for the countless thousands of victims of crime, we in the Senate welcome his support for this proposal. To that issue and to the question of gun crime I am confident that the Senate will devote the very highest priority.

As to other issues raised by the President and to those now pending in the Senate in the context of S. 1 and other crime-related measures, a great deal of investigation, review and analysis remains. To those, for example, that relate to the death penalty, to riot controls, entrapment, wiretaps, document classifications, obscenity and other matters, the most careful attention must be devoted to the end that there is struck an appropriate balance between the rights of the accused, the protection of society, the awareness of the public or whatever preeminent constitutional and policy interests are at stake. Those questions are relevant. Their resolution goes to the essential purpose of the legislative process.

It is primarily to the crime victim and the gun criminal that my personal attention is directed. To the victim because he has been too often the forgotten—though most affected party involved; to the gun criminal because I think his burden must be made intolerable if we are ever to control the violence he espouses.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD at this point.

S. 2005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, is amended by inserting immediately after section 3146 the following new section:

"§ 3146A. Release in connection with firearm related offenses

"Notwithstanding the provisions of section 3146 of this title, any person charged with an offense involving the use of a firearm in the commission of that offense, or involving the unlawful carrying of a firearm during the commission of that offense, shall be treated in accordance with the provisions of section 3146 unless the court or judge has reason to believe that no one or more conditions of release will reasonably assure the appearance of the person as required or will reasonably assure that such person will not pose a danger to any other person or to the community. If such a risk of failure to appear or of danger is believed to exist, the person may be ordered detained."

SEC. 2. The chapter analysis of chapter 207 of title 18, United States Code, is amended by inserting immediately after the item "3146. Release in noncapital cases prior to trial." the following:

"3146A. Release in connection with firearm related offenses.".

COMMITTEE ON FINANCE MEETING DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Finance be allowed to meet at 10 o'clock today for the purpose of considering the increase in the public debt.

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

SENATE RESOLUTION 192 AND SENATE RESOLUTION 193—RESOLUTIONS TO PERMIT WITHDRAWAL AND RELEASE OF CERTAIN DOCUMENTS AND PAPERS

Mr MANSFIELD. Mr. President, on behalf of Senator JACKSON, I submit two resolutions and ask unanimous consent for their immediate consideration en bloc.

The resolutions (S. Res. 192 and S. Res. 193) were read, considered by unanimous consent, and agreed to as follows:

S. RES. 192

Whereas the United States Attorney for the Central District of California has requested certain documents, memorials, notes, and other papers to assist his office's grand jury investigation of certain Prepaid Health Plans; and

Whereas the Senate Permanent Subcommittee on Investigations has certain documents and other papers which had been secured by members of said Subcommittee during the course of their duties as employees of the Senate; and

Whereas by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate no memorial or other paper presented to the Senate shall be withdrawn from its possession except by Resolution of the Senate; therefore, be it

Resolved, That the Permanent Subcommittee on Investigations may release the documents, memorials, notes and other papers relating to Prepaid Health Plans for the use of assisting the Office of the United States Attorney for the Central District of California in their grand jury investigation.

S. RES. 193

Whereas the Attorney General for the State of Michigan has requested certain documents and other papers relating to the activities of Arnold H. Kambly and the University Center, located in Ann Arbor, Michigan, to assist them in the prosecution of Arnold H. Kambly for criminal activities related to the operation of the University Center and the CHAMPUS program; and

Whereas the Senate Permanent Subcommittee on Investigations has certain documents and other papers which have been secured by members of said Subcommittee during the course of their duties as employees of the Senate; and

Whereas by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate no memorial or other paper presented to the Senate shall be withdrawn from its possession except by Resolution of the Senate; therefore, be it

Resolved that the Permanent Subcommittee on Investigations may release the documents and other papers relating to the activities of Arnold H. Kambly and the University Center to assist the Office of the Attorney General of the State of Michigan in the prosecution of Arnold H. Kambly for criminal activities related to the operation of the University Center, located in Ann Arbor, Michigan, and the CHAMPUS program.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the dis-

tinguished Senator from Washington (Mr. JACKSON).

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

STATEMENT BY SENATOR JACKSON

These resolutions are to permit the withdrawal and release to the United States Attorney's Office for the Central District of California and the State of Michigan, Attorney General's Office of certain documents that have been received by the Permanent Subcommittee on Investigations of the Committee on Government Operations.

The United States Attorney for the Central District of California, by letter of May 7, 1975, has requested certain documents that are not of public record but have been collected by the Subcommittee during the course of its investigation of prepaid health plans. The United States Attorney's Office has informed us that such documents and materials are to be used in a grand jury investigation with regard to California prepaid health plans.

The Michigan Attorney General's Office, by letter of June 12, 1975, has requested documents and other information relating to the activities of Arnold H. Kambly and the University Center located in Ann Arbor, Michigan, to assist them in the prosecution of Arnold H. Kambly for criminal activities relating to the operation of the University Center and the CHAMPUS program.

The Government Operations Committee has unanimously approved both requests.

THE PRESIDENT'S CRIME MESSAGE

Mr. HUGH SCOTT. Mr. President, the President's crime message warrants prompt action by Congress.

In this body we have S. 1, into which we can build the structure of the recommendations.

I agree that provisions for the compensation of victims are timely and in fact it should have been done a long time ago.

There may be some differing points of view on this matter, but I do feel that there is no other way by which we can compensate people who are far more damaged than a great many people who are being compensated by the Federal Government now for a variety of reasons.

The bill addresses itself to one factor which interests me particularly, and that is the certainty of punishment in the event of conviction. To me, it does not matter whether the sentence be 1 year or 20 years. That is for the judge; and that, of course, is a matter of the offense charged and the circumstances under which it was permitted. But once a sentence is imposed, if a criminal knew that he actually would have to serve the sentence, that would be the single greatest deterrent to the commission of crime.

I have been a prosecutor, as have many others in this body, and some have been attorneys general of their States. They know that the prosecutor convicts a defendant in the frontroom. The defense attorney secures many delays before trial, hoping the witnesses will disappear or change their minds. The prosecutor then visits the judge. Prominent citizens of the community visit the judge, to do a favor for an old friend. The judge is busy and may feel himself overworked, and he reduces the sentence from 3.5 to 7 years down to 1 year. Then the defendant is committed; and after a few weeks, the sentence is quietly changed in the backroom. He has served a few weeks—if, indeed, he serves any time at all.

I think that one of the greatest flaws in the criminal justice system is the fact that a very high percentage of judges in this country, whether they like my saying it or not, are inclined to be lenient in the imposition of sentence and even more lenient in their insistence that the original sentence be carried out.

So the need here is the certainty of punishment of the guilty, and we are not going to get it unless we provide for mandatory penalties and for no parole whatsoever as to the mandatory part of the sentence. That would do more good, in my mind, than these colorful 99-year sentences handed out consecutively while the newspaper people are in the courtroom and quietly removed after press and public have ceased to pay any attention to the situation.

The criminal with a gun, in possession of a "Saturday night special," often is let out on bail, and he buys another gun. Then he commits another crime in order to pay the bail bondsman. Do not think that has not happened. I used to be head of the bail division of the district attorney's office in my county.

The citizen has some rights in this country. The citizen has a right to security of person and property, and he is not getting it. He is not getting it, because the criminal, the thug, the thief, the murderer, the rapist is taking it away from him.

I strongly support and intend to press very hard for any provision which will cut into the great problem of the lenient judge. We have some judges—some are in the District of Columbia—who, instead of acting as judges for the imposition of sentences in accordance with the statutes, seem to me to be acting most of the time as courts of general jail delivery, which is the old name of our criminal trial court in my county, but I use it in the other sense. They would empty the jails and turn the criminals loose on the people, because they do not have the guts to stand up to a persuasive defense lawyer or to some friends of the court who assert that dear little Willie, who shot four people, is really a nice boy and should be given another chance.

Mr. President, I hope that we will draft this legislation wisely, that we will take to heart the President's suggestions, and that we will enact it promptly, because it has been long delayed.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, the Senator from Hawaii (Mr. FONG) is recognized for not to exceed 15 minutes.

Mr. FONG. Mr. President, because of the circumstances surrounding the New Hampshire election contest which is before the Senate, several of my colleagues who are prepared to deliver statements in connection with South Korea will submit their statements instead. They will do this so as to expedite the Senate's proceedings on this important election matter.

Therefore, I ask unanimous consent that all statements placed in the RECORD today on South Korea be printed together.

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

A PLEA FOR POLICIES TO DETER WAR IN KOREA

Mr. FONG. Mr. President, today, the 25th anniversary of the outbreak of war in Korea, I rise to plead for action by the Congress and the executive branch that will prevent another outbreak of war on that Western Pacific Peninsula, that will deter another attack by North Korea on the people of South Korea.

I plead for policies that will avoid a repetition of the devastating 1950–53 war in Korea that cost the people of the Koreas immense suffering and that cost the United States of America 53,000 men and more than $10 billion.

Under the auspices of the United Nations, several other nations also paid a price in terms of men and materiel in defense of freedom and self-determination against naked aggression.

On July 27, 1953, an armistice designed to end armed hostilities in Korea was signed. In the 22 years since then, the people of South Korea have lived in constant peril of a bellicose neighbor, who has posed a continuing threat to peace in that area of the world.

With the fall of Vietnam, Cambodia, and the imminent demise of Laos as free nations and now under Communist domination, coupled with the failure of the United States to fulfill its promises in Indochina, the peril facing South Korea today is grave indeed. With the U.S.S.R. and the People's Republic of China no longer burdened with supplying arms and ammunition to North Vietnam and other Communist forces in Indochina, it is only understandable that Premier Kim Il-sung would be tempted to seek their support for some military venture against South Korea.

It is understandable too, that the Premier may well want to test America's reliability and steadfastness toward a nation with whom we have a mutual security pact.

Today, there are those who question the role America should play in the Republic of Korea and who call for a reevaluation of the effect of American military and economic aid on that country.

Mr. President, having been to Korea 15 years ago when evidence of the devastating war was still quite visible, then returning to South Korea just last fall, I can personally attest to the success of the latest economic miracle in Asia. The first time I visited the Republic of Korea, poverty was widely evident, the main source of power was men's backs and legs, and life as a whole was best described as spartan.

When I returned after just a decade and a half, private automobiles, buses, bicycles, and taxis filled the streets, high-rise buildings were everywhere and Seoul was suffering from the ailments all cities face from developing so fast in so short a

period of time—smog, traffic jams, and busy sidewalks.

Today the Republic of Korea is being hailed the "miracle along the Han."

When in 1945 the Korean peninsula was divided at the 38th parallel with Soviet forces occupying the North and the U.S. forces occupying the South, the major portion of the natural resources needed for development of industry, electrical power sources, and food-producing regions were all concentrated in the Communist-controlled North. By contrast, the South was quite poor in the essentials needed for modernization.

Then, too, during the Korean war, Seoul, the capital of the Republic of Korea, was twice captured by the Communists so that by the war's end, only the capital building was left standing in the once bustling city.

Despite such overwhelming obstacles, the Republic of Korea is well on its way to becoming a fully industrialized nation. In 1961, Korea had a per capita GNP of only $83. Now, with a population of over 34 million, it has quadrupled to $373, giving it one of the highest per capita GNP among developing nations. In a 5-year period of planned growth between 1967 and 1971, the Republic of Korea enjoyed an average per annum growth in GNP of 11.4 percent.

Already rivaling the Republic of China on Taiwan and Japan in certain export markets, in 1972, the Republic of Korea exported $1.7 billion worth of goods. Textiles, shoes, electrical equipment, and ironworks from the Republic of Korea are all in very high demand. Pianos and other musical instruments, chemical products, furniture, and plastic products, along with the traditional ginseng and silk have all found large markets throughout the world.

Always a sure sign of a healthy atmosphere, tourism has rocketed from 15,000 visitors in 1962 to almost 700,000 in 1973. Korean Airlines, the flagship of the Republic of Korea provides daily jumbo jet service into the Pacific, Southeast Asia, Japan, and the United States. Thus, despite their physical handicaps, South Korea leads North Korea in practically every aspect of their economy.

Following in the footsteps of Japan and the Republic of China on Taiwan, the Republic of Korea is well on the way as the newest economic power in Asia.

Zygmunt Nagorski, Jr., a staff member of the Council of Foreign Relations, who spent 3 years in South Korea as a Foreign Service officer, wrote for the New York Times in "Standing Up for South Korea"—June 14, 1975:

> The case of South Korea . . . has been a success story in Asia. It is a country which has gone through a trauma of a Communist war and a Communist occupation that left deep scars. [However] The mere fact of the existence of a democratic opposition in Korea is a success story. Add to it the Korea economic growth which made that little peninsula one of the most rewarding experiences for the American economic assistance program.

Yes, Mr. President, Americans can be proud of contributing to the foundations of yet another economically self-reliant nation—the Republic of Korea.

In the years following World War II, South Korea has made considerable progress also toward democratic government and liberties for its people after decades of foreign domination.

As we here in America know, democracy is the most difficult form of government to implement. It is a tribute to the South Korean love of liberty, individual dignity, and desire for self-determination that so much progress has been made in so short a time.

The tribute is particularly meaningful when we stop to realize that since the 1953 armistice, the people of South Korea have existed in what can only be described as a state of siege.

Seoul is situated only 30 miles south of the Demilitarized Zone—DMZ—within artillery range of North Korean guns. During the winter, the Han River freezes over and can permit foot soldiers to be deployed against the city. Residents still remember the agony Seoul suffered during the war 25 years ago.

Today, with the North Koreans in possession of much more sophisticated weapons, Seoul, with its population of 6 million, is even more vulnerable. North Korean surface-to-surface missiles—Frogs—are entrenched at sites on the North Korean border within easy range of the city. After crossing the DMZ, a Mig fighter, of which the North Koreans possess 300, would take only 3 minutes to reach the city. Then, in a third mode of attack, the North Koreans could deploy their 800 to 1,000 tanks in a blitzkrieg attack.

Mr. President, it is almost impossible for Americans, who have not faced an invasion in over 150 years, to conceive of a situation similar to the one the South Koreans are presently facing.

History has shown us, however, that Americans react to situations with considerably less forbearance than the South Koreans are presently showing. When a small band of roving Mexican bandits led by Pancho Villa periodically raided border towns in the Southwest just prior to World War I, President Woodrow Wilson ordered Gen. John Pershing to pursue them into Mexican territory, in violation of our treaty agreements. In 1962, President Kennedy called out the Navy and America came perilously close to war in reacting to Soviet missiles on Cuba.

Imagine what our reaction would be if there were three times as many missiles, plus tanks, almost a half-million hostile troops and several hundred modern planes stationed on the Canadian border. That would be a nightmare for Americans.

The South Koreans have lived in this state of siege for over two decades. If it were just a case of continuing to face uncertainty, the South Koreans have the stamina to persevere.

However, recent developments in North Korea have aroused the fears of the South Koreans that, instead, they may face guerrilla warfare, armed incidents, or all-out war.

The leader of both the Democratic People's Republic of Korea and the Communist Party—Korean Labor Party—Kim Il-sung has recently journeyed to Africa and Eastern Europe, the People's Republic of China, and other socialist countries in an obvious search for support. Similar intercourse between North Korean and Soviet officials prefaced the beginning of the Korean war 25 years ago.

While we do not know whether the People's Republic of China or the Soviet Union extended Premier Kim the full support he sought, we must ask ourselves, irrespective, "Would China or Russia sit by passively in the event North Korea launched a new war against the South?"

With the ever-widening rift between the two Communist powers, could either country allow the other to gain ascendancy in North Korea?

The People's Republic of China fears that the Soviet Union would use a war in Korea as a pretext for moving troops near her southern Manchurian border, thus, threatening China's industrial center.

On the other hand, Russia cannot allow China to dominate in Korea, as China would then be strategically placed to block the Soviet port of Vladivostok, the Soviet Union's sole warm water port in the Pacific.

Could either China or Russia ignore the possibilities an outbreak on the Korean peninsula presented for strategic maneuvering?

I am not predicting that either the Soviet Union or the People's Republic of China would encourage a new war by North Korea. Given North Korea's present strength, Kim Il-sung could act on his own, confronting his two neighbors in the north with an accomplished fact and then expecting them to assist him as the two Communist nations assisted North Vietnam.

Today, North Korea holds the decisive military advantage over the south. On the land, the two sides are about even. While South Koreans have a larger standing army, the North Koreans have a large, trained civilian militia and clearly possess a more powerful artillery.

The North Koreans reportedly have about 1,180 tanks and 6,300 artillery pieces and mortars plus missiles that can reach Seoul.

The South Koreans have only 750 tanks and about 1,000 artillery pieces. While they possess both surface-to-surface and surface-to-air missiles, none has the destructive capacity of the North Korean missiles.

In the sea, the North Koreans have a slight advantage in the number of ships they maintain.

However, it is in the air that the north is strongest and where the war could well be decided. Pyongyang has about 600 combat planes, including 130 Russian-built Mig-21 fighters, the most sophisticated plane in the Soviet Union. On the other hand, the South possesses only 200 combat planes, including 110 F-86's dating from the Korean war and 18 F-4 Phantoms.

With such an arsenal, Kim would not need military aid from either of his Communist allies for quite a while. Instead, he could hope that his strike to the South would be swift enough and decisive enough to win a quick victory over the South Koreans. Without a doubt, if it were not for the presence of 42,000 American troops in South Korea and American air bases in Japan and

South Korea, North Korea now possesses the means to achieve such an end.

These external outreachings of Kim have been accompanied by a stepup in rhetoric that bears a remarkable similarity to the rhetoric of 1950 prior to the attack. For example, on April 18, 1975, in Peking, Kim Il-sung observed:

If revolution takes place in south Korea, we, as one and the same nation, will not just look at it with folded arms but will strongly support the south Korean people.

If the enemy ignites war recklessly, we shall resolutely answer it with war and completely destroy the aggressors.

In this war, we will only lose the Military Demarcation Line and will gain the country's reunification.

This increasingly militant and threatening rhetoric has been matched by the growing reluctance of the North Koreans to carry on peaceful negotiations with the South. For a while several years ago, it appeared that the two sides were finally working toward the realization of the dream of all Koreans—the peaceful reunification of the peninsula. A series of Red Cross conferences discussed ways to achieve the reunion of families separated by the border zone.

Then on July 4, 1972, Seoul and Pyongyang simultaneously announced their mutual agreement to renounce the use of force and to seek peaceful reunification without outside involvement. The spirit of this accord was in agreement with the armistice signed July 27, 1953. Accordingly the South-North Coordination Committee was established. In a series of meetings held in both Seoul and Pyongyang, the committee discussed possibilities for ending nearly 30 years of stalemate.

Unfortunately, the North recently reverted to a recalcitrant and unreasonable position. Breaking an agreement reached in the July 4, 1972, accord, the North has set up loud speakers on the DMZ to continually broadcast its propaganda. They have also cut off all negotiations. In a statement issued on November 8, 1974, Ho Tam, Vice Premier of the Democratic People's Republic of Korea's Administration Council and Foreign Minister, established guidelines along which the North was willing to return to the discussion table.

Among these demands were that President Park step down from office and that all foreign troops, including the United Nations peace keeping force, withdraw from the Republic of Korea. Obviously, if the South Koreans were to agree to such demands, they would not only be sacrificing their national sovereignty, but also placing their lives in greater jeopardy.

Then there are those tunnels under the DMZ. Some of these tunnels stop only 800 meters short of the South Korean border. With the appropriate equipment, the North could send commando teams through the tunnels into South Korea in a replay of the terrorist attacks of 1968.

In those raids, North Korean commandos repeatedly clashed with South Korean and American troops stationed on the border. In doing so, North Korea blatantly violated the armistice. Among the most infamous of those raids, 20 North Korean raiders got as far as the Presidential mansion, the Blue House, in their attempt to assassinate President Park.

Given the memory of these past experiences, Mr. President, is it any wonder that the South Korean Government has increased its vigilance with the discovery of 15 of these tunnels?

Unfortunately, the presence of these tunnels is just one element in a series of North Korean attacks on peace in the region. The capture of the American ship *Pueblo* in January 1968 was America's most remembered contact with North Korean irresponsibility. Last year, an agent of North Korea from Japan infiltrated into South Korea and attempted an assassination of the President, killing Mrs. Park instead. In recent months, intelligence reports make very clear that North Korea has moved some armoured and tactical air units closer to the demilitarized zone. In toto, the South Koreans can only see these developments as pointing to one thing—a repeat of the tragedy of 1950.

Given these circumstances, curtailment of some of the people's rights in South Korea is a bit more understandable.

Even in our own country, political repression was implemented in time of national peril.

During the Civil War, President Lincoln, surely one of history's staunchest supporters of human liberty saw it, necessary to rescind the right of habeas corpus, the right of freedom of assembly and other civil liberties to insure a strong nation in time of war.

More recently, during World War II, the United States, in an act more irrational than any South Korea has enacted, placed Americans of Japanese descent in internment camps. During the Vietnam war, troops were stationed in our Nation's Capital to maintain order while large-scale demonstrations took place. Many people were arrested and put in jail, illegally according to a later court ruling.

So, Mr. President, we should not be so fast to condemn President Park and the South Korean Government.

Acting Assistant Secretary of State for East Asia and Pacific Affairs Arthur W. Hummel, Jr., in his statement last year before the House Foreign Affairs Subcommittees on International Movements and Organizations and Asian and Pacific Affairs put the situation very well:

The South's (South Korea's) development has been confronted at every stage of the past quarter century by a hostile North Korean regime demonstrably prepared to thwart at almost any cost democratic growth in the South. The manifestation of this threat has ebbed and flowed and its nature has varied over the years, but the specter has remained constant. Memories of a bitter war still remain in the South, and, in the past, most Koreans have been prepared to sacrifice some of their personal liberties in order to maintain national security. The problem South Korea faces today is determining what that price should be. While we share Korean aspirations for truly responsive government, the decision is a determination only the people of South Korea can make.

The point that Mr. Hummel makes is most apropos for despite all the opposition Mr. Park faces today, the opposition leaders—everyone from the Christians to the students—are all agreed that national vigilance against an attack from the North must be maintained at all times.

Mr. President, while in the Republic of Korea last fall, everyone I talked with—our Embassy officials, our military leaders, Government officials, and private citizens—agreed that national security was of paramount importance. In manifestation of this spirit, the 92d session of the Korean National Assembly on May 20, 1975, unanimously adopted the "Resolution on National Security." The resolution, supported by bipartisan legislatures, declared in part:

The entire Korean people, firmly united, resolve resolutely to crush any type of north Korean provocation and aggression, thus safeguarding the nation's legitimacy as well as guaranteeing the right to survive for a free democracy in this country.

Mr. President, this resolution affirms once again the strong desire of the people of South Korea to maintain their independence, their freedom, and their democratic way of life.

Imperfect as their fledgling democracy is, the people of South Korea vastly prefer it to the alternative of Communist rule by North Korea. The people of South Korea know that liberty and human rights do not flourish under Communist rule.

Even columnist Jack Anderson, hardly a past defender of American foreign policy, who last year journeyed to Korea to investigate for himself the allegations of atrocities and widespread repression in the Republic of Korea, reported December 7, 1974:

South Korea's growth rate, now at an astonishing 15 per cent, is the highest in the world. The people, clearly are more free, more prosperous and altogether better off than their cousins north of the 38th Parallel.

I found that Park's opponents are quite free to denounce him and to demonstrate against him. Seoul's daily newspaper carry cautious accounts of these demonstrations.

The democratic processes clearly have been curtailed, but democracy is not dead in South Korea. And economically, the country has made astonishing progress under President Park.

I do not argue with those who claim that there has been a curtailment of civil rights in the past year. I do not disagree with those who argue that political freedom in South Korea does not exist to the same degree as in the United States. All these claims have been well-documented and admitted to by the South Korean Government. After almost 200 years, our Nation has not perfected democracy, despite our Anglo-Saxon democratic heritage of more than 1,000 years.

Mr. President, in a statement in the Senate last December, I reported that when I was in South Korea, I witnessed one of the most democratic practices that can be found anywhere. The South Korean Prime Minister and his cabinet were undergoing 2 weeks of intensive public, face-to-face, sometimes abrasive questioning by members of the opposition in the South Korean legislature.

So, Mr. President, as we in America contemplate what our future policy toward South Korea should be, we should look at the broad picture and at the alternatives.

Surely, it is unrealistic to expect all our friends and allies around the world to be models of perfection, without flaw, without sin. That is a standard so high that even the United States of America does not meet it.

In foreign policy and in our relations with other nations, we must keep in mind our Nation's broad objectives, our primary goals, our needs, and our solemn treaty pledges.

In view of the recent debacle in Indochina, where America's failure to fulfill our commitment to resupply South Vietnam raised grave doubts around the world as to the reliability of the United States, our Government must fulfill its promise to South Korea to modernize its defense forces.

Our basic commitment to the Republic of Korea is the Mutual Defense Treaty signed in 1954. As part of this agreement, we presently have 42,000 troops stationed in South Korea. These troops, stationed between the DMZ and Seoul, are as important to deter war in South Korea as U.S. troops in Europe are to deter war there.

In 1970, the United States reaffirmed its commitment to South Korea by pledging itself to 5-year modernization program, a program that was to be completed by the end of the current fiscal year—June 30, 1975.

However, as has happened all too frequently in the past, America has again failed to live up to its promises. By June 30, America will fall $362.8 million short of our promised aid—about 29 percent short.

One of the most important steps the Congress of the United States could take to help avert the outbreak of war in South Korea would be to provide funds to expedite modernization of Republic of Korea forces.

At this critical juncture, we must maintain our force levels in South Korea. Withdrawal of any sizable numbers of U.S. troops could well lead North Korea's Kim Il-sung to miscalculate our resolve and our intentions, just as he miscalculated our resolve and our intentions in 1950, after our Secretary of State excluded South Korea from our Pacific defense perimeter.

President Ford has repeatedly enunciated his determination to fulfill our promises and our treaty obligations to South Korea. The Congress should back up the President in the effort to avert further outbreaks of war against the South Korean people.

The United States should recognize that South Korea is a key portion of the democratic strongholds in the Western Pacific, which include Japan, the Republic of China, and the Philippines as well. As such, South Korea is very important to U.S. interests in the Pacific.

Should South Korea fall under the domination of Communist North Korea, Japan would be in dire jeopardy, for the Korean peninsula geographically is like a pistol aimed at Japan.

Japan has only some home defense forces and relies on the United States for its national security. Therefore, we must stop whittling away our bases in Japan. Otherwise, we leave South Korea without modern air cover and we leave Japan naked to aggression.

What a catastrophe it would be for America if South Korea, Japan, the Republic of China, and the Philippines were to lose their independence and come under Communist rule.

What a tragedy to lose to Communist rule 35 million South Korean people, 107 million Japanese people, 16 milion Republic of China people, and 40 million Filipino people—people who now enjoy freedom far exceeding that of the citizens of any Communist nation.

What an array of hostile nations we would face from our shores in Guam, Hawaii, Alaska, and the lower west coast. How our defense and security problems would be magnified.

What a blow it would be to our economy and to American jobs if we lost our good trading partners: Japan, the Republic of China, South Korea, and the Philippines.

Such trade now far surpasses our trade with all Communist nations combined.

What a blow to the free world to lose to the Communist orbit the industrial might and technological skills of Japan, third greatest producer in the world, the output, ingenuity, and skill of the Republic of China and South Korea, and the resourcefulness of the Filipino people.

America has a very great stake in the continued independence of South Korea, Japan, the Republic of China, and the Philippines. It is a stake that encompasses the very economic lifeblood of our Nation, the jobs of millions of American workers, and indeed the security of our country.

So today, Mr. President, on this the 25th anniversary of the North Korean attack on South Korea, I plead with my colleagues in Congress and with the American people to do everything we can to avert another attack on South Korea. Such an attack, if successful, would have adverse repercussions extending far beyond South Korea to the entire Western Pacific, leaving America facing a hostile array of nations.

Let us have the foresight, the wisdom, the courage, and the staying power to help maintain independence and freedom for South Korea, one of our strongest, most faithful, and dependable allies in the world.

We must deter war, not only for the sake of the 35 million people of South Korea, but for the sake of 213 million Americans and the generations to come.

Mr. President, I yield to my distinguished colleague from North Carolina (Mr. MORGAN).

THE 25TH ANNIVERSARY OF COMMENCEMENT OF THE KOREAN WAR

Mr. MORGAN. Mr. President, I am pleased to join with my distinguished colleague this morning in noting the 25th anniversary of the commencement of the Korean war. On June 25, 1950, North Korean troops launched a full-scale attack across the 38th parallel. U.N. forces, under the unified command of the United States, acted quickly and decisively to combat the Communist invasion. Later, despite Communist China's provision of military equipment and manpower for the enemy cause, limited objective offensives by allied forces created such havoc with enemy forces that they requested a cease-fire. Two years of negotiations produced an armistice which brought peace to Korea again.

Mr. President, I served in the U.S. Navy during the Korean conflict, and I saw firsthand our country's courageous efforts on behalf of the Republic of Korea. I saw 27 of my shipmates make the supreme sacrifice. By playing such a vital role in preserving South Korea's freedom, the United States underscored the commitment to its allies in Asia. Our swift and vigorous response to North Korea's invasion signaled to the world our ardent opposition to Communist military aggression against countries of the Free World.

Today, 25 years later, we must again focus our attention on Korea. With Indochina having now fallen into Communist hands, widespread speculation is that the next clash in Asia may well occur on that divided peninsula.

The situation in Korea is especially perilous since the interests of the United States, Japan, U.S.S.R. and Communist China all converge there. China and Russia have contiguous borders with North Korea, and historically have supported the Communist regime there with economic and military assistance. During the Korean conflict, for example, many of the Communist troops were commanded by Soviet officers. And Red China supplied some 300,000 soldiers for the enemy cause. North Korea is assured of continued support since it has treaty relationships with both Russia and Red China which were negotiated in 1961.

As for our relations with South Korea, significant trade and economic ties have developed. Since World War II, we have invested over $11 billion in military and economic assistance to the Republic of Korea. And in addition, we sacrificed more than 50,000 lives and sustained in excess of 100,000 wounded in the Korean war. Up until 1973, we were South Korea's largest trading partner.

Japan's relationship with South Korea should not be understated. Japan replaced the United States in 1973 as the Republic of Korea's best customer and now rivals U.S. investment there. During the Korean war, Japan served as a logistical base and transhipment point in support of U.N. forces in Korea. To carry on military operations effectively in Korea, Japanese bases are essential.

If tension mounts on the peninsula, therefore, all four nations must make decisions regarding what actions to take. North Korea would look for support from Red China and Russia, while South Korea would undoubtedly seek assistance from the United States and Japan.

If the three major military powers, as well as Japan, became involved in hostility in Korea, the results would certainly be disastrous. Détente between the United States and Russia would be destroyed and hopes of improved relations with the People's Republic of China irreparably harmed. Japan could not hope to establish relations and expand contacts with Russia or China. And there is certainly the very real possibility that fighting could not be restricted to the

peninsula, but would spill over into other areas.

It is clear, then, that the United States must do everything within its power to avert a military conflict in Korea. This means we must continue to give strong military and economic support to the Government of South Korea. In doing so, we give visible evidence of the determination of our commitment to that region.

A comparison today of the strength of the North and South Korean Armed Forces indicates them to be about even on the ground and at sea. But the North Koreans hold a great advantage in the air. The Communists have about 600 combat planes, 130 of which are Russian-built Mig 21 jet fighters. The South Koreans, on the other hand, have only about 200 combat planes, including 110 F–86's used in the Korean war, and 18 F–4 Phantom jets. U.S. forces in Korea presently total about 42,000 troops. Included in this contingent is one USAF fighter wing. The fighter wing serves to balance the South Korean Air Force with that of the North Koreans'.

These forces serve as a clear indication of our commitment to the Republic of Korea. If we withdrew these forces, we might avoid involvement in some unwanted conflict, but we would surely lose valuable influence in the area. Also, a withdrawal of our forces may tempt North Korea into taking offensive actions against the South Koreans.

The potential for North Korean aggression is clearly evident. Just recently tunnels dug by the Communists have been discovered under the demilitarized zone by South Korean patrol squads. In describing the nature and possible usefulness of the tunnels, a New York Times June 12, 1975, article stated,

> Thus the tunnels appear to be routes for small bands of guerrillas, saboteurs, North Koreans in South Korean uniforms infiltrated to create confusion, or similar units intended to attack the South Korean front lines from the rear.

Covert actions such as this one make it imperative that we continue our support of the Government of South Korea.

And so, Mr. President, as we enter a new age in foreign policy, with the collapse of Southeast Asia, and the dissension among some of our NATO partners, I would ask my colleagues to carefully examine the present situation in Korea. Upon such careful consideration, as have I, that we cannot afford to retreat from our commitment and support of South Korea.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order the Senator from South Carolina (Mr. THURMOND) is recognized for not to exceed 15 minutes.

THE CONTINUED FREEDOM OF THE REPUBLIC OF KOREA

Mr. THURMOND. Mr. President, today my colleagues and I consider a subject of exceedingly vital importance to the United States: The continued freedom of the Republic of Korea. In light of the recent Communist takeovers in South Vietnam and Cambodia, the Republic of Korea, or, as it is commonly known, South Korea, remains as a fortress against Communist aggression on the Asian mainland. The United States must continue to give its full and unqualified support to our staunch ally, South Korea.

The Republic of Korea has an estimated population of 34 million people situated in an area of approximately 38,000 square miles, which is slightly larger than our State of Indiana. This ranks South Korea with Japan and the Republic of China, in density of population. Amazingly, the literacy rate in South Korea is approximately 90 percent.

Mr. President, by merely looking at a world map, one can easily grasp the significance of the Korean peninsula to the four major powers in the area: The People's Republic of China, the Soviet Union, Japan, and the United States. The United States and Japan have considerable interests in the Korean peninsula. Both countries have substantial economic ties as trading partners with South Korea. In 1973, South Korea sold goods worth over $1 billion to the United States. Since then Japan has surpassed the United States in dollar volume of trade with South Korea and is now that country's No. 1 tradin r partner.

Communist China and the Soviet Union have contiguous borders with North Korea. Historically, these two countries have supported the North Korean Communist regime with economic and military assistance. As is well known, Chinese troops were used in Korean conflict, and Red China was branded an aggressor by the United Nations for this support of North Korea.

Mr. President, the Soviet Union and the People's Republic of China are constantly supplying the North Koreans with weaponry with which to conduct war. This has been done and is being done on a massive scale. The extent of this continuing support is aptly illustrated by the fact that North Korea has a three-to-one air superiority over South Korea. Approximately, one-quarter of the North Korean Air Force consists of the modern Soviet Mig–21 fighter interceptors. Of South Korea's approximately 200 combat planes, 110 are U.S. F–86's dating from the Korean war of the early 1950's, and only 18 are F–4 Phantom jets.

Mr. President, in 1971 the United States embarked on a $1.5 billion program to modernize the South Korean Armed Forces. Unfortunately, Congress has not appropriated sufficient funds for this purpose. The Republic of Korea has already been informed by our Government that this modernization program cannot be completed by the end of fiscal year 1975 and must be extended. As of June 15, 1975, $363 million in military assistance plans and foreign military sales credit remains to be programed; in addition, $112 million in nonreimbursable transfers has not yet been programed. Mr. President, this is totally inexcusable. If the South Koreans are going to be able to adequately defend themselves against armed aggression from North Korea, they must have the equipment with which to do it. The South Koreans are determined to resist aggression. The South Korean people recognize the value of their freedom and will fight to preserve it. The Congress should act immediately to appropriate the full amount of aid promised our ally, South Korea.

Mr. President, as I have previously stated, North Korea has contiguous borders with both the Soviet Union and Communist China. Thus, in the event of war, it would be relatively simple for the North Koreans to be resupplied by their allies. South Korea, on the other hand, must be resupplied by the United States and Japan. In the case of military equipment and hardware, resupply would come almost entirely from the United States. Considering the logistics problem that would be involved in a resupply effort for South Korea, does it not make eminent sense that the South Koreans not be forced at the outset into a posture of inferiority insofar as military equipment is concerned?

North Korea has treaty relationships with the Soviet Union and Communist China which were negotiated with both countries in 1961. The treaty with Communist China has no termination date, and the treaty with the Soviet Union was negotiated for 10 years and is renewable for 5 additional years. Although it appears that Communist China would not prefer a North-South confrontation at this time, as advocates of wars of "national liberation," they would probably not deny North Korea at least tacit support for a guerrilla insurgency in South Korea

Mr. President, the United States must stand by its treaty commitments to South Korea. Our Mutual Defense Treaty contains four principal operative provisions: First, the parties will seek peaceful views of settling disputes; second, the parties will consult in the event either is threatened by external armed attack; third, each party recognizes that an armed attack in the Pacific area on either country would constitute a danger to their peace and security and agree to meet the common danger in accord with their constitutional processes, and fourth, Korea recognizes the deployment of U.S. Armed Forces in its territory, subject to the mutual agreement governing such forces.

Mr. President, I feel that the recently enacted war powers resolution is not substantially in disagreement with the provisions of this Mutual Defense Treaty. Under the war powers resolution, the President, under his constitutional powers, may introduce U.S. Armed Forces into hostilities or where imminent involvement in hostilities is clearly indicated. This reflects the Presidential power to introduce additional armed forces into Korea if our forces are attacked there. By requiring the President to consult with Congress in every possible instance before introducing U.S. Armed Forces and consult regularly thereafter, the war powers resolution implements, to a large degree, the consulting provisions of the Mutual Defense Treaty and the treaty's qualification that action with respect to use of force take place in conformance with constitutional processes.

Mr. President, the reasons the United States must adhere to her treaty commitments to South Korea and remain a viable force in this area of the world are many and varied. From 1950 to 1953, the United States was involved in a bloody and costly war in South Korea. At the end, we were able to help South Korea maintain her freedom and independence, but at a cost of over 33,000 American dead and 103,000 wounded. We cannot, 25 years later, abandon our ally whose freedom was preserved by the sacrifices of these valiant Americans.

The continued independence of Korea is vital to another of America's staunchest allies, Japan. As I noted earlier, Japan is now Korea's No. 1 trading partner, having recently surpassed the United States in this regard. More importantly, however, is the strategic importance of a free South Korea to Japan. A swift glance at a map makes this crystal clear. If all of Korea were under Communist control, it would be a dagger pointed at the heart of Japan. If this were the case, Japan would most certainly feel insecure and would be forced to rearm. I note that President Marcos of the Phillipines, an old friend and staunch ally of the United States, has recently returned from Communist China, a trip he felt he had to make due to recent events in Southeast Asia. Japan is also watching the United States to see if we will fulfill our commitments. I suggest, Mr. President, that if South Korea were to fall to the Communists, Japan, the third largest producing country in the world, would feel like a tortoise without its shell, naked and defenseless. America cannot afford to let that happen.

Finally, Mr. President, recent events occurring in Korea point out the need for continued U.S. presence in this area. in November 1974, a South Korean patrol discovered a tunnel under the demilitarized zone which had been constructed by the North Koreans. Other tunnels have since been uncovered, and it is estimated that there may be some 15 or more tunnels under the DMZ. Additionally, recent statements by North Korean officials, and the reported movements of two North Korean armed divisions closer to the DMZ are cause for concern. In light of these developments, President Park of South Korea has stepped up the alertness posture of his country.

Mr. President, around the first of this year I visited the Republic of Korea, and was deeply impressed by their Armed Forces. These forces are modern, well-trained, and well-disciplined—they possess the will to fight for the preservation of their freedom. This combat capability was most recently proven in South Vietnam. However, these soldiers must have equipment equal to that of their enemy. The United States should fulfill its promise to modernize the South Korean Armed Forces. In addition to a well-equipped, well-trained, South Korean Army, the presence of the U.S. 2d Division in South Korea is visible evidence of the U.S. commitment to peace in this area. These U.S. forces have provided an important deterrent to any North Korean aggression across the DMZ. Withdrawal of these forces would eliminate this essential deterrent.

Mr. President, I would like to remind my colleagues that the last time the United States withdrew its ground forces from Korea was in 1949. Twenty-five years ago today, the North Koreans attacked South Korea, and the United States became embroiled in the Korean war. There is no guarantee that history would not repeat itself. Let us rededicate ourselves today in support of our ally, South Korea—a country which may well be the key to stability and peace in her part of the world.

Mr. President, I ask unanimous consent that an article which appeared in the Rising Tide, dated June 23, 1975, entitled "1,200,000 at International Rally in Korea," be printed in the RECORD.

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

1,200,000 AT INTERNATIONAL RALLY FOR KOREA

60 NATIONS REPRESENTED IN SEOUL

A thousand delegates from over 60 nations joined more than a million residents of Korea June 7 in pledging to give their lives in the defense of freedom on the Korean Peninsula.

Featured speaker at the huge rally was the Reverend Sun Myung Moon, founder of the International Unification Church. Rev. Moon is also founder of the International Federation for Victory over Communism.

The internationally known evangelist denounced Communism as the "enemy of both God and man" and said that his followers from throughout the world had pledged to come to Korea and die if necessary to defend against any attack by North Korean dictator Kim Il-sung.

Representatives from 16 other religious groups also addressed the huge congregation of believers, including the leaders of the Chondo-gyo religious sect and several Buddhist and Christian denominations.

Neil A. Salonen, President of the Freedom Leadership Foundation represented the United States and addressed the rally.

"We have come here with three purposes, Salonen said:

To awaken the people of the free world to the great danger for all of us which exists in the current crisis in Korea.

To warn the Communists, especially in North Korea, that we the people, regardless of what the governments may do, will not tolerate renewed aggression.

To call upon all people of all religions to join us in this humanitarian crusade to demonstrate for the freedom for all those who are trapped in Communist countries against their will, and (to demonstrate) for God."

Rev. Moon emphasized the religious theme in his address to the huge congregation.

"Today two ideologies are facing each other," he told the crowd which had gathered at Yoido Island on Seoul's south side.

"One thinks that there is a God and the other thinks that there is no God. One world is centered on material and the other is centered on spirit. The world that believes in God is on God's side. The world that does not believe in God is on Satan's side.

"Therefore the fight to defeat Communism is the fight of God.

"The protection of Korean freedom is not only for Korea," Rev. Moon said, but for the sake of the whole free world and for the defense of eternal freedom and to bring to God a final victory.

Referring to the suppression of religious and other human rights in Communist countries Rev. Moon declared, "when these two world ideologies confront one another the result will determine God's existence."

Several speakers gave personal testimonies to the utter destruction of religious worship in Communist countries, especially in Communist North Korea.

Open letters were adopted to U.S. President Gerald Ford, Korea President Park Chung Hee and other free world leaders.

A letter of warning was approved by the congregation, addressed to North Korean President Kim Il sung, and declaring that aggression would be strongly repulsed.

(The following additional statements on Korea are printed at this point in the RECORD by unanimous consent.)

THE UNITED STATES WILL ACT DECISIVELY IN SOUTH KOREA

Mr. HELMS. Mr. President, I commend the distinguished Senator from Hawaii (Mr. FONG) and my distinguished colleague from North Carolina (Mr. MORGAN) for their eloquent statements here this morning. I am pleased to associate myself with their remarks.

As they have made clear, Mr. President, we have a piece of unfinished business in South Korea, some business that the casual observer might think we are ready to liquidate. Let us state it clearly at the outset, "such a casual observer would be wrong." I am very pleased to participate in this discussion with my distinguished colleagues in order to help emphasize the point. We want to send a message to the whole world, and to North Korea in particular, that we here in the Senate today are ready to support decisive action should any unmistakable aggression from the North occur.

I want to make it clear that I am underlining the word "decisive" when it is combined with support for whatever action might be necessary. I think we learned a tragic lesson in Vietnam about protracted warfare in which men's lives are doled out one by one, by the dozen—even by the score even—to bolster some diplomat's empty gesture, or to "contain" warfare within "reasonable" boundaries.

I do not think that any man who ever served in battle would agree that there is anything reasonable about war. War might better be described as the failure of reason, the failure of credible deterrence. That is why the only course of response to armed aggression is an effort to win the war and win it quickly. So-called civilian advisers who shrink from the costs of victory may think that they are limiting the horrors of war through controlled escalations, limited targets, and negotiated settlements; but these devices have all been discredited in the shame of Vietnam. They are more costly in the long run. We know that more U.S. casualties occurred after the so-called peace negotiations began than before. So too, in Korea almost as many casualties occurred after the negotiations began on July 10, 1951, as before. We have learned some hard lessons in Asia. Never again will we allow a protracted war, or a false peace to blind us to the ongoing protracted conflict.

That is why I welcome the public statement of Secretary of Defense James Schlesinger that we have tactical nuclear weapons ready for use in Korea, and that we would use them if necessary. We all know about the imbalance

in the opposing indigenous forces on the Korean peninsula. We also know about the role of the United States in the unified command structure.

The experts have told us about the vulnerability of certain exposed targets and geographical centers in the South. There has been the suggestion that there is really no effective defense for these areas, and that the formidible North Korean forces might try to capture these targets in order to demoralize the opposition in the South and to test the American will to allow U.S. troops to enter hostilities. The statement of Secretary Schlesinger deals a mortal blow to this speculation. The nation that depends merely upon technology or wealth for its survival will surely falter, but the nation that possesses both the will to win and the means is already half way to victory. The name of the game is to stop aggression before it starts by making the would-be aggressor fear the consequence of his actions. The statement of Secretary Schlesinger lays out the consequences most forthrightly. And those consequences would occur before the pacifist lobby in this country gets cranked up.

For, indeed, already we are hearing that we have no business in Korea at all, and that in South Korea is not a worthy recipient of the benefactions of our armaments. The answer to this is twofold:

First. We are not ready and primed in Korea for the primary benefit of the South Koreans, and

Second. Therefore, the internal problems of South Korea should not be our business.

Frankly, we are in Korea now as earlier because Korea is the front line of the Pacific. It is a shield thrust forward in front of Japan; and if Japan were directly exposed and threatened, her intricate economy—interwoven so closely with the needs and stability of the Western economies would collapse. It is fashionable to imagine in some quarters that the United States is defensible beginning at the sands of Waikiki, or perhaps at the Golden Gate. Of course it is not. Our influence, our ability to lead other nations to work toward common goals, our willingness to defend freedom depend upon our allies perception of our decisiveness and resolution.

But is South Korea, as some seem to doubt, a "bastion of freedom" in the consecrated phrase? What about the controlled press in South Korea, the stern measures against subversives, the emergency decrees concentrating power in the hands of the executive? I cannot defend such actions out of hand; I have only read about them in our own newspapers, and it would be rash of me to come down on one side or the other of such controversy.

But if I were in a position to investigate such charges, I would realize that our own media's reputation for objectivity is so low that I would not want to take at face value the stories that have thus far filtered down to the public at large. Nor would I omit to recall that the history of the United States includes such incidents as Abraham Lincoln's suspension of the rights of habeas corpus during the War Between the States, detention without trial for whole groups of suspected collaborators during that war—and other wars—and the military trial, without constitutional safeguards, of those accused in the plot to assassinate Lincoln.

When we cannot justify our own history, how can we accuse others of the same crimes? Suffice it to say that the perspective of war is lost upon those who study events in tranquillity.

Besides, too many, even in our own country, have forgotten the basic components of freedom. The rights of complete freedom of speech and democratic participation in government are exotic plants grafted upon the more sturdy roots of life, liberty and property. The man who can draw his family about him, provide the necessities and a little more, choose his abode and mode of employment or enterprise enjoys far more basic freedoms than the man who is constrained by a Communist state or than the man whose liberties are hamstrung by socialism or whose necessities are provided by welfare.

The South Korean economy needs no apology, and it is relatively efficient at distributing the fruits of labor and invention according to initiative. A nation that can provide this while faced by an implacable enemy deserves our support and is more in the American tradition than the Third World Socialists so fashionable in our media.

I think it is clear that the United States will take a stand in South Korea and act decisively if that is necessary. Our President, as Commander in Chief, has shown that he has the will and the authority to act in a way which will not be misinterpreted. Let no one draw another conclusion.

THE KOREAN SITUATION

Mr. GARN. Mr. President, any discussion of the Korean situation today must address the similarities and differences between Korea and Vietnam. Our mistakes in Vietnam must not be repeated in Korea, and I would like today to consider some ways in which the two countries are alike and different.

One lesson which should have been learned from Vietnam, Mr. President, is the psychological component of modern warfare. We were constantly told, toward the end of the Vietnamese conflict, that the impact of the media was extremely important in the conduct of the war, perhaps even determinative of the outcome. At the least, it became obvious that the psychological condition of the American public was as important as the military equipment of the two armies on the battlefield. In part, the perceptions of the people resulted from decisions made by the media, but in part, those who were responsible for the official conduct of the war committed a serious strategic error in the way they elected to treat the war. To quote Norman Hannah, the U.S. Consul General in Sydney, Australia, the key question is "how did the reality of the war in Indochina differ from our perception of it?" Mr. Hannah goes on, in an article in the June 20 issue of National Review, to discuss four ambiguities about the conduct of the war, ambiguities which led eventually to our loss on the battlefield, and the delivery of 14 million of God's children into a system of government which thrives on violating the rights of individuals. I will not discuss each of the ambiguities, but 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:

THE GREAT STRATEGIC ERROR

(By Norman B. Hannah)

To start with, let us change the question from "Who lost Indochina?" to another question: "How did the reality of the war in Indochina differ from our perception of it?" This is the key question in one of history's most complexly multifaceted and ambiguous wars.

Ambiguity is the key word—the key to the war, to North Vietnam's success and to our difficulties, particularly during the period of our initial commitment and military buildup running to the Tet offensive of February 1968. Communist strategy was based on preservation of a screen of ambiguity beneath which they could operate at their own level of capability without presenting a clear target to our infinitely greater and more sophisticated capabilities. The screen was briefly withdrawn during the Tet offensive, then quickly restored in the wake of Hanoi's military defeat and political victory, and most recently withdrawn again for the final North Vietnamese victory. We recognized the various aspects of this ambiguity as empirical data and in some cases took vigorous (if not wholly effective) action. But we did not act on a perception of the whole fabric of ambiguity as the means by which the Communist side forced the war into a pattern which channeled our efforts into directions which Hanoi found tolerable (although hurtful), while not depriving it of its own ability to operate on the ground at its own level of military capability.

This cultivated ambiguity had several aspects:

1. *In military tactics*, the North Vietnamese (with their subordinate Vietcong elements) fought like guerrillas simulating the role of an indigenous civil insurrection although they had been largely sent from North Vietnam.

2. In *military strategy*, the North Vietnamese used the forest canopy and the ineffective neutrality of eastern Laos and Combodia to cover their movement of reinforcements and supplies to South Vietnam.

3. *Politically*, Hanoi used a quadruple canopy under the 1962 Geneva Accords on Laos—the Pathet Lao, the spurious "troika" coalition, the ineffective ICC, and the deadlocked UK–USSR co-chairmen—to protect their use of eastern Laos as a military route to South Vietnam.

4. *Psychologically*, they cast a worldwide veil of obscurity on their actions by refusing (as a totalitarian state can do and others cannot) ever to acknowledge that they had any forces in South Vietnam, Laos, and Cambodia, thereby denying the world a specific target for criticism.

If ambiguity was the weapon on the Communist side, unequivocal clarity should have been our weapon as it traditionally has been. Americans have been criticized for casting complex issues into overly simplified categories of black and white, ignoring the shades of gray, perhaps sometimes a valid criticism in dealing with abstract principles. But when the stage of war has been reached, there are only two sides, "theirs" and "ours." Here, our perception of the ambiguity of the Vietnam War failed us. Instead of tearing

away the veil of ambiguity and forcing the war into the kind of clearly demarcated sides which would enable us to extract full measure from our strengths, we cast our response to North Vietnam's ambiguous attack in a pattern which permitted Hanoi the continued use of the ambiguity on which its strategy was based. I am not implying support for extreme notions such as the use of nuclear weapons, or occupying North Vietnam, or "bombing Hanoi back to the Stone Age," or threatening Communist China. What is involved is only the effective dovetailing of political ends and military means. The following four points are consecutively apposite the four numbered points above.

1. We deployed our forces throughout South Vietnam *as if* we were opposing an indigenous insurgency rather than external attack, however masked.

2. We responded to Hanoi's use of the route through Laos by bombing which was only marginally effective without follow-up exploitation, and we never effectively insulated South Vietnam against the essential route of external attack.

3. We exercised this restraint because of our desire to maintain the "framework" or, more properly, the "facade" of the Geneva Accords on Laos for future use, despite the fact that under the umbrella of the Accords Laos was being used by Hanoi as the key instrument in its campaign to bring down South Vietnam—literally a gun pointed at the heart of South Vietnam.

4. Because of the foregoing, Hanoi was never forced to acknowledge its participation publicly or to defend its actions, a situation to which the world soon grew accustomed and thereafter berated Hanoi infinitely less for what it refused to admit than the U.S. for what it openly proclaimed.

How did this happen? We were imprecise in our perception of the nature of the problem in South Vietnam. To what extent was it an external attack from North Vietnam and to what extent a genuine internal uprising against the government and its internal weaknesses? This was the fundamental question on which our whole role in South Vietnam should have turned. We needed to sort out the external and internal elements, to determine the role played by each—which was primary and which secondary. A conclusion that the war was *primarily indigenous* and only secondarily supported from North Vietnam would have constituted a strong prima facie case against committing any U.S. forces, although economic and military assistance (not U.S. forces) might still have been indicated. If, on the other hand, the war resulted *primarily* from an *external attack*, benefiting only secondarily from certain internal weaknesses, there would have been ground to consider: a) whether appropriate means were available to assist South Vietnam in coping with its own internal weaknesses and, b) if so, whether to introduce armed forces against the external attack but not against indigenous resistance, in other words, "to insulate" South Vietnam against the external attack, buying time to work on the internal problems.

Viewed in this manner, we had two choices, depending on our analysis of the problem—either to keep U.S. forces out of Vietnam or to deploy them against the external threat. Unfortunately, our perceptions were not formulated in such precisely defined terms. Either of these two choices would have been more logical than the one we chose—to split the difference by deploying U.S. forces internally to fight against a simulated insurgency.

How did this confusion occur? Not because of inadequate intelligence information, at least not after 1961. But, during the early 1960s, as Hanoi's role grew and our knowledge of it increased, our perception was distorted into a misapplication of the new doctrine of "counterinsurgency." This doctrine was predicated on the idea that Communist subversion flourished in poorly organized, newly independent, underdeveloped countries afflicted with internal weaknesses, including ineffective internal security. It followed that it would be cheaper and more effective to cope with these internal weaknesses in their incipient stages than to wait until they grew into crises of major proportions. Counterinsurgency offered a way of coping with Communist subversion before it reached the stage of nuclear confrontation, as it did in Cuba in 1962.

The doctrine had much merit and it provided a pattern for applying our resources broadly across social, economic, agricultural, educational, administrative, and internal security needs and problems. It included a heavy component of internal security emphasis on the training, organizing, and equipping of police and gendarmerie forces. This kind of aid seemed to meet the real needs and capabilities of some countries better than more costly military assistance programs based on large armies loaded with sophisticated electronics, missiles, jets, and major naval units.

So far, so good, but at this point the counterinsurgency doctrine was twisted askew to accommodate South Vietnam. Hanoi's ambiguous attack, masking as an indigenous uprising, came to be called an 'insurgency," thus blanketing it under the new doctrine which was originally designed to cope with truly "internal" problems. The result was inevitable. Hanoi's infiltrated aggression was treated as the insurgency it pretended to be while its external origins were treated as of secondary, almost incidental importance. Thus did the doctrine of counterinsurgency provide the matrix out of which our policies and strategies in South Vietnam were fabricated.

The doctrine included the concept of "advisors," a concept which was greatly expanded in the early 1960s to include up to 20,000 military advisors in South Vietnam, with many assigned down to the platoon level and operating with Vietnamese forces in the field. Steadily, the external input from North Vietnam mounted and eventually, in response, U.S. forces were committed to protect the security of the bases at Danang and Bien Hoa, then to the Central Highlands, and progressively in all kinds of combat roles throughout South Vietnam.

It had been known since 1962 that North Vietnam had forces in eastern Laos in defiance of the Geneva Accords of the same year and that the Ho Chi Minh trial was being used to move supplies and men to South Vietnam. Later, we saw the flow of equipment and men through eastern Laos into South Vietnam mounting in the middle Sixties to cover 100,000 men per year while much heavy equipment was shipped by sea to Cambodia and moved through the forests to South Vietnam. But U.S. forces were already committed to fighting throughout South Vietnam in accordance with the doctrine of counterinsurgency, not against the external attack. The process fed on itself. As our forces secured one town, their perimeter had to be expanded in self-protection, thus requiring more men and more logistical and air support. Then, as we brought our heavy military might to bear, we grievously frayed the Vietnamese socio-political fabric, thus increasing its dependence on us. Meanwhile, the flow through Laos and Cambodia to the enemy proceeded steadily.

As the impact of external reinforcements increased to a stage which could no longer be tolerated, we deployed our Air Force progressively mile by mile further north in Laos and North Vietnam. Thus, we tried to meet the external threat by increasingly heavy air action without following it up with ground exploitation—to cut the routes in Laos—despite the clear lesson of both Germany and Korea that air power not followed up by ground exploitation cannot be decisive.

How did this happen? Here, we reach another element of ambiguity. Under the Geneva Accords of 1962, Laos was supposed to become a buffer state governed by a neutral tripartite government including Communists, neutralists, and non-Communists, under the auspices of the Accords which internationally guaranteed Laotian neutrality and provided for the withdrawal of all foreign forces.

But the Accords were predicated on a confusion of "neutrality" with "coalition." Neutral buffers exist and in some cases perform a useful function by insulating what might otherwise be contentious borders between Communist and non-Communist areas. Austria is one and Afghanistan another. However, in these cases, neutrality is rooted in a unified government prepared to behave in a unified neutral manner. In Laos, the tripartite coalition did not function as a unified neutral government and could not do so, as North Vietnam never withdrew its forces. Moreover, the history of Communism strongly suggests that while Communists are sometimes prepared to respect genuine neutrality and may be prepared to reach detente on a territorial basis, they will not do it on a political basis which require an overt ideological merging. For a Communist Party to submerge itself in a full-fledged coalition indefinitely would be incompatible with Communist ideology.

There was concern that effective military counteraction against the North Vietnamese in Laos would result in the destruction of the Geneva Accords. It was hoped that maintaining the facade of the Accords would make it possible at some later time to use them as the framework for a real peace. But when? It was widely believed that the Laos problem was subordinate to South Vietnam and that once the problem of South Vietnam was settled, the situation in Laos would then be adjusted accordingly. Because our strategy in South Vietnam has been cast in a counterinsurgency pattern and because we were dedicated to the preservation of the facade of the Laotian Accords, our perception was blinded to the fact that Laos, far from being secondary or subordinate to South Vietnam, was indeed the principal instrument being used by Hanoi against the South. In fact, Laos became not a neutral buffer but a highway of aggression.

A different point of view would have been to perceive Hanoi's violation of the Geneva Accords on Laos as a) a measure of the importance of Laos to North Vietnam's attack on South Vietnam, b) a measure of Hanoi's attitude toward solemnly negotiated agreements, and c) a measure of the real value of the Accords themselves.

Implicit in the concept of counterinsurgency was the concept of "measured response," that is, a response no greater than necessary to accomplish a specified limited objective. The important thing is that the objective be specific measurable, and achievable. As applied in Indochina, however, "measured response" became "gradual escalation" which was intended to increase the pressure incrementally so that at any moment it could be relaxed in response to some possibly favorable sign from the other side. Gradualism was believed also to minimize the danger of provoking a dangerous Great Power reaction.

There is something to be said for gradualism if the graduated scale is closely geared to specific, realistic, *achievable* objectives. Unfortunately, gradualism in Vietnam was imprecise, based on such unmeasurable criteria as "tightening the screws" or "getting the message to Hanoi." This is why escalation seemed to proceed unproductively upward. The goal which gradualism pursued was

simply an indication of Hanoi's willingness to call it all off, which reflected a far too low perception of Hanoi's tenacity and its ability to withstand today's harsh punishment as the price of tomorrow's reward.

Let it also be said, parenthetically, that the proponents of "de-escalation" were equally imprecise in defining the point at which their specific objective would be reached, perhaps not wanting to look ahead to the logical conclusion any more than the proponents of ungeared escalation did. In a sense, gradualism was like a violin string which could be tightened or loosened by turning the peg but unfortunately that peg lacked a "sticking point" in the form of a specific objective achievable by our own resources without the cooperation of the enemy. Once the peg was finally released without a sticking place at the taut level, it was inevitable that the string would unwind to its flaccid end.

Gradualism, as practiced in Vietnam, was directed at inducing the enemy to agree to give us our objectives. This tested Hanoi's endurance without achieving our ends. Thus, the war was reduced to a contest of political attrition to determine which side was capable of sustaining longer the cost of an inconclusive and seemingly endless war. Militarily, the U.S. was far stronger, but politically the American people needed an unequivocally clear confrontation with a visible enemy and specific military objectives which could be portrayed on a map of front lines and progress measured. Hanoi, however, less vulnerable to democratic political forces, was able to go on indefinitely as long as it could continue to fight the war in its own way—that is, behind a screen of ambiguity which left the route through Laos open and allowed North Vietnam to fight at its own level while steeling itself against the harsh but inconclusive blows from the air.

It was not enough to say we wanted "Hanoi to stop doing what it is doing" or that we wanted negotiations or that we wanted full implementation of previous treaties. Of course, we wanted all these things but we were at war precisely because Hanoi was doing the opposite. Having resorted to arms, a logical military goal would have been to use force to achieve what we wanted on the ground—the insulation of South Vietnam against external attack—and then to wait until tht enemy became ready to negotiate as he would be more likely to do if already deprived by the military insulation of South Vietnam of his ability to carry on the only kind of war he was capable of fighting.

It may be argued that there was no way to convert the Vietnam War into an open military confrontation and fight it to a military standstill along a ceasefire line as happened in Korea. I would disagree, but the point is arguable since the effort to do so was not made. The point is that American military success depended on doing so—on tearing away the screen of ambiguity and forcing the war into a pattern which favored *our* military and political strengths, not Hanoi's. If this were deemed to be impossible because of the intrinsic nature of the war (or alternatively, because of fear of direct Chinese intervention), then we never should have entered it. The tragedy is that our flawed perception led us in two contrary directions—on the one hand to commit forces bravely to oppose what we saw as a thinly masked aggression and on the other hand to allow our strategy to be shaped by Hanoi's ambiguity—the ambiguity of simulated insurgency, the ambiguity of supply and reinforcement under the jungle canopy of Laos, the ambiguity induced by the lack of a line drawn on a map, the ambiguity that allows the enemy to fight while denying that he is fighting.

In the early 1960s the new wisdom of counterinsurgency was to meet the enemy on his own ground at his own level of combat rather than to risk a Great Power confrontation. Unfortunately, in South Vietnam we responded mainly to Hanoi's simulated insurgency rather than to its real but concealed aggression, as a bull charges the toreador's cape, not the toreador. Thus, in 1975 we look back on an indecisive war in which the sides and objectives were imprecisely defined and which deprived us of the full advantage of our own strengths. Historically, the American people fight decisive wars and are not likely to fight another inconclusive one.

There may be room for difference on how important Indochina is—the future will answer that question. There is room for difference on whether we should have been involved or not. But, having become involved, there is little room to doubt that the means we chose failed to achieve the desired result.

We were not evil. Our motive was honorable—to help a friendly country defend itself against attack. But there was a fatal hiatus between the end and the means.

This is only a part of the story but it is an important part.

Mr. GARN. Mr. President, Mr. Hannah's ambiguities are relevant to our consideration of Korea, and we ought not to lose sight of reality. The ownership of the real estate in question is not the important point. Rather, it is the power relationship between competing governmental systems. At the present time, the influence of the United States is waning in the world. We have lost in Indochina; NATO is in disarray; communism is firmly established in Portugal; Communists have just made significant electoral gains in Italy; Communist-inspired insurgencies are brewing in Panama, Angola, Peru, and in other areas of Africa and South America. While it would not do to overemphasize the connection between these events, it would be worse to ignore it completely. We are engaged in a struggle, Mr. President, one which is deadly serious, and Korea is an important counter in the game.

A South Korean mobilization was reported over the weekend, and the military situation in Korea could be serious. The North Koreans are tunneling under the demilitarized zone and making periodic infiltrations into the south; but there is no question about the ability of the South Korean Army, backed by American firepower, to repulse any invasion at this time. The critical factor is the condition of the will of the people of this Nation. This is a truth which is much more widely recognized since Vietnam, although it was widely recognized by the Communists during that conflict. In an article which also appeared in the June 20 issue of National Review, Anthony Bouscaren describes the situation following the 1972 bombing of the north, which President Nixon ordered, in these terms:

A real and lasting peace could only have been achieved at this point if he had been in a sufficiently strong position, in terms of American will, to threaten the continuation of the war and of the bombing and mining for as long as necessary. That the U.S. Government no longer had the will to see through its commitment was now crystal clear to Hanoi and Moscow.

I ask unanimous consent that the entire article appear at this point in the RECORD, and call the attention of my colleagues particularly to the role of psychology in the defeat in Vietnam.

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

ALL QUIET ON THE EASTERN FRONT
WHAT HAPPENED?

(By Anthony T. Bouscaren)

America has become "a simpering, defeatist, isolationist nation. The damage done to America by the Vietnam debacle is inestimable. It is going to work a spell on America for 25 years. America is going into a national eclipse, and it is going that way willingly. It is bad enough for me personally to leave a place where I had planned to build a life. I don't expect anyone to give a damn about that. But America has lost its honor, and no one cares about that either." So spoke Peter Glick, a 35-year-old American businessman who lived and worked in Saigon for nine years before being evacuated.

The *Canberra Times* editorialized on April 6: "It seems unfortunately true that the prestige of the U.S. as an ally will suffer. . . . Thailand now apparently deems it unwise to continue its links with the U.S. . . . tremors will reverberate through South Korea, Taiwan, and perhaps also the Philippines and Indonesia. Should Australia also begin to re-examine its position with the U.S. alliance?"

The same day Tokyo's respected *Mainichi* noted: "The political withdrawal of the U.S. from Indochina will have far-reaching effects. The declining prestige of the U.S. in Southeast Asia is causing policy changes in the area."

According to Alexandra Dor-Ner, a young American-born photographer married to an Israeli television director, the collapse of Indochina, despite America's commitment and guarantees, has been impressed upon Israel's collective awareness in a fearful montage of past and present. Television news clips of refugees fleeing Danang trigger memories of narrow escapes from Europe's concentration camps. Kissinger's failed peace treaties become "peace in our time."

The *London Spectator* went so far as to say: "It is now doubtful how long American commitment to Europe will last. . . . All around the world American horns are being drawn in."

A new wave of revisionism now informs us that we should never have tried to defend Indochina in the first place, that we did more damage to the people concerned than the Communists, that the South Vietnamese forces did not fight, that the victory of the Communists was inevitable, and that we should never again come to the assistance of a threatened government of that type.

It is useful, before the dust has settled, to look at the record, especially since the time of the North Vietnamese invasion of Easter 1972.

At the end of 1970, Hanoi's Politburo was much encouraged. The moratoriums at the end of 1969 had been followed by violent demonstrations over Cambodia in 1970. In subsequent statements and broadcasts President Nixon had sounded apologetic and more defensive on the Vietnam issue. The failure of the Republicans to make any real gains in the midterm elections suggested that the President's popularity was waning. Hanoi drew the conclusion that he would be vulnerable in an election year. Just as they had succeeded in overthrowing the Joseph Laniel Cabinet in France in 1954, and President Johnson in 1968, so it appeared to the members of the Politburo that they could do so to President Nixon in 1972. They were encouraged in this view by antiwar visitors to Hanoi during 1970. "If peace was the objective of these visitors they certainly went to the right capital; unfortunately they had exactly the opposite effect," wrote Sir Robert Thompson in *Peace Is Not at Hand.*

Hanoi was concerned about the growing offensive capability of the South Vietnamese forces early in 1971. Communist efforts in neighboring Cambodia and Laos were also losing their momentum. Throughout 1971 Soviet military hardware poured into North Vietnam: MiG 21s, SAM missiles, T–54 tanks, the unrivalled 130 mm. guns, 130 mm. mortars, and, for the first time, SA 7 heat-seeking missiles, together with spares, ammunition, trucks, and POL (petroleum, oil, and lubricants) in unprecedented quantities.

Within South Vietnam Vietnamization and pacification continued to progress; there was an excellent harvest, and greater stability and prosperity than ever before. President Thieu was re-elected in October 1971 and the POW issue had given a new impetus to the end-the-war movement. Thus 1972 was the right year for the next invasion.

The South Vietnamese could see enemy forces building up in four areas. First, the NVA (North Vietnam Army) was cranking up an attack force in the north from Khe Sanh and across the DMZ (with the 304th and 308th divisions), including a strike east from the Laotian border toward Hué (the 324th division). The objective of these units was to defeat the ARVN (Army of Vietnam) forces in Region I, capturing Hué and threatening the major supply port and air base at Danang (sixty miles to the south).

A second attack force (the 2nd and 320th divisions) was aimed at the Central Highlands, especially Kontum. Further south, in Region III, the 5th, 7th, and 9th NVA divisions could be expected to attack toward Saigon, either down Route 13 through An Loc or down the more densely populated route through Tay Ninh and along Route 1. The fourth thrust included the 3rd division in the mountains in northern Binh Dinh Province and the 1st division on the Cambodian border south of the Mekong River.

The prospect of defending South Vietnam from attacks on all these fronts, when the choice of place and time rested with Hanoi, was not good. With the defensive forces stretched thin, it was necessary to hold the reserves until the main enemy thrust could be identified.

At 0200 hours on March 30, the invasion started across the DMZ, with secondary strikes in the Central Highlands toward Kontum and in Binh Long Province toward An Loc. Some 120,000 men were involved, supported by Russian T–54 tanks and 130 mm. guns which outranged the American 105 mm. and 155 mm. howitzers in the fire bases by more than six miles. The invasion would result in battles greater than any seen in the world since Korea twenty years before, and bigger than those in the Six Day War in the Middle East.

The widespread nature of these attacks was praised by many commentators as showing the brilliance of General Giap's strategy and the flexibility of his forces. The imminent collapse of South Vietnam was expected, and "the whole press was busy sharpening its knives-through-butter smiles" (Thompson). This time the ARVN was on its own, although with American volunteer advisors and crucial air support. On April 6, the Nixon Administration resumed bombing North Vietnam.

After initial reverses in the north, the ARVN held a defensive line 25 miles north of Hué, then prepared for the counteroffensive which was to recover Quang Tri. To meet the attack from the northwest, the ARVN held at the defensive position, Fire Base Bastogne. At both points three ARVN divisions held off six NVA units. The defensive forces at An Loc were completely cut off and had to be supplied by parachute drops. It was to become the symbolic battle of the invasion. At Kontum the ARVN 2nd division held, and on May 30 President Thieu flew in to promote the divisional commander and proclaim the victory.

The fighting qualities of the ARVN soldiers in defense, and the weight of American air power were vital factors, but so were the mistakes of the NVA. The attacks in the different sectors were not coordinated, nor were the tank and infantry attacks. Over 3,000 NVA tank crews had had five months training at the Russian armored school in Odessa. They were taught to drive and maintain, but were not taught the tactical use of tanks.

ARVN's numerical strength and fighting capability increased throughout the invasion. Over 84,000 recruits completed their full training from May through July, which more than offset the casualties. There were so many volunteers for the elite divisions, such as the airborne and marines, that drafting was not required. Meanwhile American M–48 tanks, TOW antitank missiles, and 175 mm. guns were pouring into Saigon together with large quantities of aircraft and other replacements. The U.S. Air Force had developed new laser- and television-guided "smart bombs" which were quite devastating in their accuracy. The publicized effectiveness of the bombing had important morale effects for both sides.

American credibility was restored by the mining of Haiphong and other North Vietnamese ports on May 8. It was clear to all the world, and especially to Moscow, that the United States was not going to acquiesce in the destruction of an ally. Far from weakening President Nixon's hand at the Moscow Summit, it strengthened it. There was not a word of criticism from Mr. Brezhnev.

Not a single provincial capital, out of 44, had been captured and held, although the NVA did occupy Quang Tri briefly. Hanoi's strategy now was to switch the war back to the negotiating table, and then prepare for the next strike when it became clear that the peace would not be enforced. The men of violence have learned that they do not have to accept compromise solutions even when the concessions are higher than they deserve. All they have to do is take the concessions and resume the violence. In these circumstances a bad agreement is worse than no agreement.

President Nixon and Secretary of State Kissinger made important concessions to Hanoi to achieve "peace." The terms were intended to look attractive to the American public, offering, as they appeared to do, an "end to the war" and the return of the prisoners. Sir Robert Thompson's comment "that it was South Vietnam which would have to live or die as a result of breaches, abuses, and misinterpretations of the agreement did not worry the appeasers and deserters who equated the withdrawal of the United States with peace. . . ."

Having gained a dominant bargaining position as a result of the highly successful bombing of North Vietnam in December 1972, Nixon found he could not press his advantage because of increased domestic pressures to accept a ceasefire on any superficially acceptable basis. Nor could he press for concessions that really would have ended the war, such as the withdrawal of the NVA into North Vietnam. A real and lasting peace could only have been achieved at this point if he had been in a sufficiently strong position in terms of American will, to threaten the continuation of the war and of the bombing and mining for as long as necessary. That the U.S. Government no longer had the will to see through its commitment was now crystal clear to Hanoi and Moscow.

The January 1973 agreement allowed the NVA invasion force of 170,000 troops to remain in the northern part of South Vietnam. The provision that they were not to be reinforced could not be supervised. The British Vietnam expert P. J. Honey noted in the London Telegraph several weeks later: "Dr. Kissinger's conduct of the whole negotiations appears quite extraordinary, for he made concessions to the Communist side without reciprocation, deliberately kept the South Vietnamese allies in ignorance of what he had conceded, and finally forced an unwilling President Thieu to sign the agreement by a harsh ultimatum."

Thieu was especially concerned about the 170,000 Communist troops in South Vietnam. Mr. Nixon wrote to him on November 14, 1972:

"But far more important than what we say in the agreement of this issue—the presence of North Vietnamese troops—is what we do in the event the enemy renews its aggression. You have my absolute assurance that if Hanoi fails to abide by the terms of this agreement it is my intention to take swift and severe retaliatory action. Above all we must bear in mind what will really maintain the agreement. I repeat my personal assurances to you that the United States will react very strongly and rapidly to any violation of the agreement."

On January 5, 1973, President Nixon threatened President Thieu with dire consequences if he did not go along with the U.S. concessions, concluding with this statement: "Should you decide, as I trust you will, to go with us, you have my assurance of continued assistance in the postwar period and that we will respond with full force should the settlement be violated by North Vietnam."

Thieu signed only after being assured that the United States would help the ARVN, as it had in the Easter offensive of 1972, in the event of another invasion. By March 1973 the Communists were already bringing new equipment and troops into South Vietnam in violation of the agreement. In his news conference of March 15, 1973, President Nixon declared: "We have informed the North Vietnamese of our concern about this infiltration and . . . violation of the ceasefire . . . the North Vietnamese should not lightly disregard such expression of concern." The following month Nixon was preparing to resume the bombing of North Vietnam, but rescinded the order the day John Dean testified about the Watergate story.

The North Vietnamese not only violated the agreement in South Vietnam, but in Cambodia and Laos as well. But when Nixon tried to provide significant aid to Cambodia, Congress responded by demanding an end to the bombing of the Communist enemy in Cambodia by August 15, 1973.

In November 1973, the War Powers Resolution passed the Congress. This resolution forbade the President from using U.S. armed forces in defense of any part of Indochina. Then in 1974 Congress cut U.S. aid to South Vietnam in half. After a trip to Vietnam, Representative Ryan of California, a liberal antidefense Democrat, stated: "If the Congress makes further cuts in U.S. assistance programs, it should be done with the realization that the action will weaken the military capability of the South Vietnamese to a dangerous level. The result will probably be a Communist takeover." Ryan found the South Vietnamese army to be "an effective fighting force" but he pointed out that "its ability to defend South Vietnam is being hindered by the lack of materiel." Sizable amounts of equipment lie idle, Ryan reported, "because of a lack of ammunition and/or fuel, thus preventing any counter-attacks."

Another visitor to Vietnam was Senator Sam Nunn, a moderate Democrat from Georgia. He noted: "Since the reduction of U.S. aid the military initiative has shifted to the North Vietnamese." This sharp reduction in aid "has reduced mobility for the South Vietnamese forces." The drawdown on available stocks of such things as ammunition, fuel, spare parts, and medical supplies has "already had a negative psychological effect," he said, and "if continued, will inevitably destroy the initiative and aggressiveness of the South Vietnamese forces."

In January 1975, President Ford asked Congress for $300 million in military aid to South Vietnam, and comparable amounts for Cambodia. Not only did Congress not act, but the Democratic caucus resolved not to send *any* military aid to either country. The upshot was the Communist attack in Phuoc Long Province in January, culminating in the major Communist victory at Ban Me Thuot in early March, which led to President Thieu's decision to pull back from the Central Highlands the better to defend South Vietnam with shortened supply lines. The supply of spare parts was less than 50 per cent of estimated requirement; military vehicles and aircraft were limited to about 50 per cent of their past consumption of fuel. The consumption of ammunition had to be curtailed as the U.S. cut back on its contractual maintenance of weapons. The result was that a significant proportion of South Vietnam's planes and helicopters could not be used.

While the United States reduced its aid to South Vietnam, the Soviet Union sent record stockpiles of military supplies to North Vietnam—$1.7 billions worth in 1974. By late 1974 the Communists were preparing to take advantage of their new-found military superiority.

The official journal of the North Vietnamese Communist Party, *Hoc Tap*, was very much aware of the impact of congressional cutback of aid to South Vietnam. Shortly before the January offensive, it noted: ". . . the intensity of firepower and the amount of mobile equipment of the puppet troops has decreased markedly. . . . This situation indicates that the bomb and ammunition reserves of the puppet troops have decreased and that they are encountering great difficulties in the fuel and maintenance, repair and use of various types of tanks, combat vessels, and heavy weapons. . . ."

Between mid-January and mid-March the Communists launched a series of probing actions against the ARVN, designed to test a) the reaction of the weakened South Vietnamese forces, and b) the reaction of the United States. They had reason to be satisfied on both scores. On March 10, at 3 a.m. the NVA massively attacked the capital of Dar Lac Province, Ban Me Thuot, 150 miles northeast of Saigon. They had attacked before, in 1972 and 1968, only to be repulsed. But this time the ARVN was weaker, and there was no U.S. air power to worry about. After three days of heavy fighting, the NVA was in possession of the capital. A shortage of spare parts and gasoline had precluded the kind of massive resupply and reinforcements which had spelled the difference in the two previous invasions, as far as the defensive forces were concerned. The jungle-covered highlands afforded excellent cover for Communist guerrillas and supplies infiltrating the country from Laos. The U.S. had refused to provide South Vietnam with bombers which might have slowed down the buildup. Hanoi decided this was the time to press the advantage.

On the night of March 13, President Thieu decided to abandon the Central Highlands, saving what could be saved of the army and the people. The President made it known that commanders in the north (Quang Tri and Hué) were to prepare contingency plans to evacuate population and troops, if need be, rather than hold to the last and suffer huge numbers of killed and wounded. Many of his generals and some American advisors had long urged such a policy. Vietnam expert Douglas Pike, with whom I shared these anxious hours, told me that considering the lack of U.S. aid, a successful withdrawal from the relatively uninhabited highlands to shorter defense lines made good sense.

Communist destruction of the 23rd ARVN division in capturing Ban Me Thuot dramatized to Thieu the altered power balance. But contrary to popular belief, he gave no precipitate order. On March 13, Gen. Ngo Quang Truong, commanding the 1st Corps in the North, flew to Saigon to confer with Thieu. The President ordered Truong to withdraw, abandoning Hue if necessary, but to make a stand at Danang. Truong agreed, adding that he would defend Hué if possible. On March 14, Thieu summoned a top secret council of war at the military base at Cam Rahn Bay, with five generals attending: Thieu; Prime Minister Tran Thien Khiem; Gen. Cao Van Vien, Chief of Staff; Lt. Gen. Dang Vang Quang, the President's military advisor; and Maj. Gen. Pham Van Phu, commander of the 2nd Corps headquartered at Pleiku in the Central Highlands.

It was decided to abandon Pleiku and Kontum in the Highlands. The plan was to regroup, then counterattack at Ban Me Thuot. Just when Pleiku and Kontum would be abandoned was left open, a vagueness of historic importance. Four of those present thought the pullout was to take place gradually the last two weeks of March. The fifth man, 2nd Corps commander, Gen. Phu, had a long and valorous record in combat, not only during the 1972 and 1968 invasions, but at Dienbienphu. But he fits a familiar ARVN pattern: a first rate division commander unable to cope with complexities of corps command.

Returning to Pleiku late on March 14, Phu inexplicably ordered the withdrawal that very night without preparation. In the old days American advisors would have restrained him, planned an orderly withdrawal, and mocked up the Ban Me Thuot counterattack. Abandoning equipment worth tens of millions of dollars, Phu's troops set east on Routes 19B and 7B, the latter a road to hell. 7B is an unimproved road with no bridges, which became chaotic as heavy trucks chewed up river fords. Retreating troops, trailed by 200,000 refugees, were ambushed at Cheo Reo by the 320th North Vietnamese division. The result was more chaos, massacres, and a calamitous retreat.

The disaster on Route 7B quickly spread. Fearing isolation in the North, Gen. Truong ordered a withdrawal from Hué. But the order was countermanded by President Thieu. Countermarching, Truong's forces collided with streams of refugees and soon turned south again. His prized 1st division disintegrated, making the defense of Danang impossible. Thus, premature withdrawal from Pleiku cost South Vietnam five infantry divisions, the country's northern half, and ultimately the country itself.

The seriousness of the situation seemed not to worry Washington. Congress took off on a leisurely Easter vacation, having taken no action on President Ford's repeated pleas for military aid to South Vietnam and Cambodia (which meantime fell to the Khmer Rouge). President Ford himself departed for a golfing vacation in southern California.

Saigon despaired. One prominent opposition legislator, Nguyen Minh Dang, denounced what he called "the betrayal of the United States." He appealed to the conscience of the American people not to betray the South Vietnamese people because of their personal interests, not to abandon an ally "that fought, side by side, for the ideal of freedom." A prominent paper, *Doc Lap*, declared: "A United States attitude of abandonment will indicate the beginning of the rapid decline of the non-Communist world."

Perhaps the most stinging rebuke came from moderate Dr. Tran Van Do, a longtime friend of the U.S. and a former Foreign Minister who represented South Vietnam at the ill-fated Geneva Conference of 1954. Dr. Do said:

"For the last few days, we have seen pictures in newspapers of Vietnamese refugees evacuating by the hundreds of thousands. The pictures are heartbreaking. They are victims of a most tragic and destructive war. They are victims because they are very simple-minded people who have put faith in the solemn promises, in the respect of the signature, of the most powerful, richest nation in the world on an international agreement. This nation is the United States of America. This promise is the promise to help South Vietnam defend its freedom and territorial integrity, by five American Presidents. This agreement is the ceasefire signed in Paris on January 27, 1973. South Vietnam is being abandoned by a big brother in whom it has put all its faith. So the big brother has betrayed. Nobody can ever believe in American promises."

What was remarkable about the ARVN was that after the precipitous retreat from the north and the abandonment of Danang, it established a defensive perimeter from Tay Ninh to Xuan Loc, and fought back with great courage although outnumbered 2 to 1, from the end of March until the government crisis following the resignation of President Thieu on April 21. Although they had ammunition shortages and the lack of gasoline greatly restricted helicopter and fighter-bomber strikes, the 5th, 18th, and 25th divisions, plus elements of the airborne division, fought well. At Go Dau Ha, a vital highway junction town 32 miles northwest of Saigon, the ARVIN were limited to a few rounds of ammunition per day for their 105 mm. and 155 mm. guns. Government air strikes were curtailed drastically because of shortage of spare parts and aviation fuel. But the infantry fought hard.

ARVN troops defending Xuan Loc and the Delta did not run when shells and rockets began to hit their positions. Tangible proof of the stubborness of the Xuan Loc defense was exemplified by the burned-out hulls of T-54 tanks destroyed in the first five Communist attacks. Xuan Loc, a key defensive point forty miles east of Saigon, was defended by the 18th infantry division and an airborne brigade, supplied the last two weeks by helicopters. The attackers included the NVA 7th and 341st divisions. Brig. Gen. Le Minh Dao, Commander of the ARVN 18th division, was asked how come the South Vietnamese fought back at Xuan Loc but not in the north: "How can I speak for them? I can only speak for myself, and we have fought."

The continued pleas of President Ford and Secretary of State Kissinger to the Congress were to no avail. A group of distinguished American scholars, including some top Vietnam experts, Frank Trager of New York University, Wesley Fishel, Howard Penniman, Robert Scalapino, and Paul Seabury, among others, pleaded for last minute assistance: "The fate of Vietnam will be decided in the next several days . . . the tenacious and heroic resistance now being offered at Xuan Loc and other points proves that the South Vietnamese army *does* have the desire to remain free of Communist control. The desperate flight of over one million refugees from the advancing Communist armies demonstrates this fact beyond any doubt. All Americans have been deeply moved by the plight of the refugees . . . Humanitarian efforts have sprung up spontaneously to help the orphans, the homeless, and the destitute. But all these humanitarian gestures will have little meaning if the Communists take over Vietnam. As one Vinetnamese told the Washington Post, the orphan airlift was 'a nice humanitarian gesture. . . . But what about millions of orphans-to-be whose parents are going to be executed by the Communists?' The ultimate humanitarian act is sufficient U.S. military and economic aid to the South Vietnamese so that they can maintain their freedom."

The opportunity to send help to the desperate people in Saigon fighting for their existence passed. The Congress seemed to be impervious to all calls for help. That same

day, President Thieu, under great pressure from his political opponents and from Washington, resigned. He recounted the pledge from President Nixon to help if there was another invasion, and the record of sustained Soviet assistance to the invaders. He declared: "I accept all responsibility for what has happened in South Vietnam during my terms as President, whether good or bad. . . . The Americans promised—we trusted them. But you have not given us the aid you promised us. . . ."

The last week of freedom for South Vietnam was one of desperation for the new government (led by Vice President Tran Van Huong), the ARVN, and the people. All knew there was no hope, yet many units fought to the end. President Ford and Secretary of State Kissinger believed that the $700 million in requested U.S. military aid might stabilize the situation and give South Vietnam some bargaining power. But Congress would not be moved. Referring to the USSR and Communist China, Ford told the American Society of Newspaper Editors: "It appears that they have maintained their commitment. Unfortunately the U.S. did not carry out its commitment." The next day Kissinger declared: "We shall not forget who supplied the arms which North Vietnam used to make a mockery of its signature on the Paris Accords."

At the end of April, when Tan Son Nhut airport was closed by enemy shelling, Americans and some South Vietnamese were evacuated by helicopter to waiting carriers in the South China Sea. Many South Vietnamese who wanted to leave could not be accommodated. Meantime the pathetic Duong Van Minh was made president so South Vietnam could surrender to the invaders. Millions of refugees who had first fled from North Vietnam in 1954, plus victims of the 1968, 1972, and last invasion, who kept fleeing south, were left to their fate, except for the relatively few who were evacuated or who fled by boat. Peregrine Worsthorne, columnist for the London Sunday Telegraph, wrote: "There is general concern at the appalling scale of human suffering involved. But what is surprising, and worrisome, is the lack of any accompanying sense of indignation or moral outrage aimed at those who are causing it; the power-hungry rulers of North Vietnam, ruthlessly bent on conquest and domination over the whole of Indochina."

The tens of thousands aboard the huge evacuation armada, sailing away from Vietnam have told endless stories of heroism, loyalty, and love in the last hours.

But for millions of Vietnamese and not a few Americans the dominant memory will be sorrow and betrayal and guilt.

There was scarcely an American in the final weeks who was not forced to share personally in that intense feeling of guilt. It was only the Americans who could do almost anything: cash checks, cut through maddening bureaucratic impediments that had been erected both by Saigon and Washington, and, most of all, get a few Vietnamese to safety.

Nonetheless, countless Vietnamese, knowing they would remain despite all, worked for their American friends to the last. Some who knew they could not leave, however much they wanted to, tried to send out last precious parts of themselves—photographs, the ashes of ancestors, keepsakes, and children.

A few minutes before one of the last groups of distraught Americans rushed from their ravaged offices and hotel rooms to look for a bus to the airport, a Vietnamese friend arrived to say farewell. Some of the Americans were in tears, and the Vietnamese, seeking to comfort them, patted their shoulders and tried hard to reassure them:

"You may hear after you leave that some here have died, perhaps even at their own hand. You must not spend the rest of your lives with the guilt. It is just a part of Vietnam's black fate, in which you, all of you, became ensnared for a time. Fate is changeless and guiltless."

South Vietnam was just getting on its feet by the end of 1974. The people were recovering from war and the rice crop was good. There was the prospect of a shot to the economy by the discovery of offshore oil. There was real hope for the future. But the Communist world did not want South Vietnam to live; and the American Congress did not care. It was still debating an aid bill on April 29 when the "Option 4" evacuation was ordered by President Ford. The events overtook a Congress which had refused to move for four months. Right after the debacle, 72 congressmen refused to vote for a resolution condemning Hanoi's invasion.

Peter Kahn, Pulitzer Prize-winning correspondent for the Wall Street Journal, wrote an "Obituary for South Vietnam", in the May 2 issue of that newspaper. He noted that South Vietnam "did manage to resist" for 25 years "and not always with a great deal of American help." Few societies "that I can think of would have struggled so long." He asked: "Was Mr. Thieu really any less of a leader than scores of other retired generals who rule semideveloped nations around the world? I think not. He was, by his own lights, a Vietnamese patriot. And, before being too hard on failed South Vietnamese leaders, perhaps one ought to stop to list the names of truly popular and successful statesmen anywhere in the non-Communist world." If only because the South Vietnamese government was never very efficient, South Vietnam, unlike North Vietnam, never qualified as a totalitarian state. There were some limitations on the power of the president, there was fairly widespread criticism of government policies, there was a surprising diversity of individual opinion and behavior. Kahn asks: "Might South Vietnam have fared better had it been more authoritarian, more rigid and ruthless?"

As to the social structure: ". . . the disparities in Vietnam actually were less glaring than those in a score of other American-allied states from the Philippines to Brazil. The South Vietnamese peasant, when the war was not being fought in his particular paddy, was a prosperous farmer by Asian standards . . . there were some millions of small farmers who owned their own land and made a fair living from their crops. The South Vietnamese peasant, in short, was not a downtrodden serf waiting for liberation from some slave master."

As to the ARVN: "It was an army that stood and fought with great courage and competence on a few occasions you remember, like the siege of An Loc. It stood and fought well at a score of places whose names we have forgotten. And it stood and fought well in a thousand little engagements and in a thousand little mud-walled outposts whose names no American ever knew. . . .It was an army that for years watched the Americans try to combat Communists with every wonder of modern weaponry and which then, all too suddenly, was left to face the Communists with American-style tactics but without any American-style resources. . . . It was an army that for years was ordered to defend every inch of Vietnamese territory and which tried, with greater or lesser success, to do just that. . . . Several hundred thousand of these soldiers died. More than half a million were wounded. And, in the final weeks of war, when every American in Saigon knew the war was lost, some of these soldiers continued to fight at places like Xuan Loc and thereby bought a bit of time for the Americans and their chosen Vietnamese to escape with their lives. It was a much better army than it appeared to be at the end."

Nor was it "unreasonable for the Vietnamese to sometimes shrug off responsibility for their own failures, to blame the U.S. for their problems, and, toward the end, when America lost heart for the war and lost interest in Vietnam, to be bitter at America and Americans." Kahn concluded: ". . . the stronger side is not necessarily the better side. 'Better' becomes a question of values and much as I may respect Communist strength and stamina I cannot accept that the Spartan Communist society of North Vietnam is *better* than the very imperfect South Vietnamese society that I knew."

We forced South Vietnam to sign the very imperfect agreement of January 1973, promising to help as in 1972 should the Communists again invade. The Communists did invade again, convinced that Congress would block effective defensive action. The Communists knew more about our Congress than the President of the United States.

Mr. GARN. Mr. President, there are, of course, serious differences between Vietnam and Korea. The opposition to communism among opponents of the Thieu government was never as overriding in Vietnam as it is in Korea. There are political factions in South Korea, but all factions agree in their opposition to government by Communists, or domination by the North. The respected columnists Evans and Novak have been reporting in the Washington Post on a recent visit to South Korea, where they report the nature of the opposition to the Park government, and the degree of unity on the question of position to communism. Their column for June 19 begins with these words:

The most important political development in this potential battleground for a shooting war is a deepening feeling by President Park Chung Hee's political opponents that, much as they deplore his harsh security measures, the anti-Park campaign by American liberals poses a worse danger to South Korea.

Mr. President, those are sobering words. It is my hope that our efforts on the floor of the Senate today can go a long way toward countering the "anti-Park campaign by American liberals." The truth is, Mr. President, that the downfall of the Park government, if it were to be followed by an invasion by the North, or a spurious "insurgency" incited by northern agitators moved south by the Communists, would be an unmitigated distaster to American foreign policy. And there should be no doubts about the intentions of the Government of North Korea. A recent article in the New York Times described the tunneling activity, and the uses to which such tunnels are directed. I ask unanimous consent that the Times article apear at this point in the RECORD, and also the Evans and Novak column mentioned earlier.

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

WAR SCARE EASES IN SEOUL, BUT BOTH KOREAS REMAIN IN A HIGH STATE OF MILITARY ALERT

(By Richard Halloran)

SEOUL, SOUTH KOREA, June 7.—The war scare that swept through this city after the fall of Indochina seems to have died down.

But that only means a return to the normal state of tension between Communist North Korea and South Korea. The chances for belligerent accusations, shooting incidents, subversion and even open hostilities still exist.

Informed American military officers here

said, however, that no major redeployment of North Korean or South Korean forces had taken place during the last two months despite widespread speculation that this divided peninsula might be the next scene of conflict in Asia. They pointed out that both sides were already in a high state of alert.

The American military sources said that a new North Korean armored division had been detected north of the demilitarized zone but said that they could not tell whether it was an additional unit or one reorganized from existing smaller units.

THREAT TO ISLANDS SEEN

The military officers, in positions to receive the latest and most detailed intelligence reports, further said that no massing of North Korean units for an attack on Seoul, only 30 miles from the demilitarized zone, had been detected.

It would take several days to deploy such units in positions to strike, they said, and they were certain that movements could be spotted in time to warn South Korean and American forces.

Similarly, the officers said that North Korean naval forces on the west coast of the peninsula had long been in position to attack five groups of small islands held by the South Koreans, and were not recent arrivals in the area.

Those western islands, which appear to be highly vulnerable, are a source of considerable concern here since they appear likely targets for a North Korean test of American and South Korean will.

South Korean officials maintain that the islands would be defended to the last man should the North Koreans attack. But American officers said that the decision would have to be made jointly by the highest authorities in Seoul and Washington, since the islands are officially under the control of the United Nations Command headed by an American general.

In addition, the North Koreans are reportedly continuing to dig tunnels under the demilitarized zone even though two have been discovered. Ten to 12 more are suspected because of sounds heard through sensors and information given by Northern defectors.

SHAFTS LACK VENTILATION

Everyone here has his own theories about why the North Koreans started digging the tunnels. American military officers have discounted South Korean contentions that whole divisions could be moved through one tunnel in an hour.

Rather, they said that units of up to 400 or 500 men could be run through one tunnel in a short time—if a way were found to get air down to them. There are no ventilators in the tunnels, and several South Korean soldiers exploring those that have been discovered have died from lack of oxygen.

Thus, the tunnels appear to be routes for small bands of guerrillas, saboteurs, North Koreans in South Korean uniforms infiltrated to create confusion, or similar units intended to attack the South Korean front lines from the rear.

The American military sources, in assessing the comparative strength of the North Korean and South Korean armed forces, contended that they were about even on the ground. The North Koreans have an advantage in armor and artillery, the South Koreans in manpower and in military experience they gained in Vietnam.

The authoritative International Institute for Strategic Studies in London, in its most recent estimate, said that North Korea's total military manpower was 470,000, with 408,000 of this in the army. South Korea has a total of 633,500, with 560,000 in the army and 29,600 marines.

NORTH HAS MORE SHIPS

The North Koreans were reported to have about 1,180 tanks and 6,300 artillery pieces and mortars, plus missiles that can reach Seoul. The South Koreans have about 750 tanks and 1,000 artillery pieces, plus Honest John surface-to-surface missiles and Hawk and Nike-Hercules surface-to-air missiles.

At sea, the North Koreans have a slight edge in number of ships but they are at a disadvantage because their geographic position requires them to have two fleets, one for each coast. Naval manpower is about the same, 17,000 for the North and 18,900 for the South.

The North's main advantage is in the air.

The Communists have about 600 combat planes, including 130 Russian-built MIG–21 jet fighters. The South Koreans have about 200 combat planes including 110 F–86's dating from the Korean war of the nearly nineteen-fifties and 18 F–4 Phantom jets.

The United States has been modernizing the South Korean forces in a $1.5-billion program agreed on in exchange for the dispatch of South Korean forces to Vietnam during the fighting there. But the program is behind schedule because Congress has not appropriated sufficient funds.

Besides the South Korean forces, there are about 41,000 American troops here with an incalculable advantage—nuclear weapons. The great unknown is whether these would be used and under what circumstances.

Some confusion has arisen over the strength of American forces here but Army officers said that recent increases did not reflect a sudden increase in strength to meet or deter an expected attack. Similarly, they said that an anticipated reduction in coming months did not mean a withdrawal.

LEVEL EXPECTED TO DROP

The military services are authorized 42,000 men here and had about 38,000 until last winter. Then the level went up as the Army sent in new men but did not send other men home for lack of funds. In addition, the Army recruited more men than expected because of unemployment at home. During level is expected to drop again as men are returned to the United States in normal rotation.

The American forces are strung out the length of South Korea from a 500-yard-wide strip along the demilitarized zone where two outposts are maintained. Behind these posts, but in front of Seoul, the sprawling capital, is the Second Infantry Division.

In this city itself are headquarters units for the Eighth Army and United States Forces Korea. Farther back is Osan Air Force Base and, farther south, the logistics headquarters at Taegu and the main ports at Pusan.

A succession of senior officers here have said that there was no military reason for Americans to be in Korea, save for air power to make up the difference between the North and the South.

Instead, the American soldiers are, in effect, hostages—a tripwire to insure that the United States would be involved in hostilities here from the start. American officials justify that as a deterrent against a North Korean attack, and call it an insurance policy rather than a risk.

Military officers also said that they were here to protect certain sophisticated weapons, meaning nuclear arms that are an open secret neither confirmed nor denied, in the official formula, by American officials.

The American forces are here under the 1954 mutual defense treaty that is the basic commitment of the United States to South Korea. The treaty, however, seems considerably less firm than much of the political rhetoric today makes it appear.

For one thing, the United States is obliged to aid Korea only in the event of "external armed attack." The Senate, in consenting to the treaty, specifically laid on the condition, accepted by the Koreans, that neither party was obligated to aid the other "except in case of an external armed attack." That would appear to rule out helping to put down an insurgency or a guerrilla war like that in Vietnam.

Second, the treaty declares that each nation "would act to meet the common danger in accordance with its constitutional processes." That is generally interpreted to mean that Congressional approval is required to declare war.

But the physical presence of American forces here may present Congress and the President with a political dilemma in the event of a North Korean attack. The question they will face then is whether to commit the United States to another land war in Asia, which is not likely to be popular among the American people, or to withdraw under fire, risking severe damage to American credibility in Japan and Western Europe.

KOREA: POLITICS AND SURVIVAL

(By Rowland Evans and Robert Novak)

SEOUL.—The most important political development in this potential battleground for a shooting war is a deepening feeling by President Park Chung Hee's political opponents that, much as they deplore his harsh security measures, the anti-Park campaign by American liberals poses a worse danger to South Korea.

That feeling stems from widespread acceptance here of this axiom: internal disunity might induce North Korean dictator Kim Il Sung to attack or the U.S. Congress to remove American forces. If there was not a threat from the North, one highly placed opposition leader told us, "we would be in the streets denouncing Park. But now we must be quiet." He and his colleagues accordingly look with apprehension at American congressmen, clergymen, civil libertarians and liberals for fear they will send the wrong message to Pyongyang and Washington.

The right message is that united opposition to communism takes precedence over internal politics with a totality never approached in South Vietnam. Furthermore, one reason for restraint by Park's political foes is that his security measures, while probably excessive, fall short of thorough repression. Less than democracy today, South Korea is not a true police state either. Thus, it would be tragic irony if concern over Korean human rights triggered a war with ominous world implications.

Central to politics here is a conscious decision by Gen. Park after coming to power 14 years ago. Heeding the teachings of Mao Tse-tung, Park courted the countryside by channeling a disproportionately high share of Korea's runaway prosperity (17 per cent annual growth before the world oil crisis) to rural areas. The results: a countryside that not only delivers huge election majorities for Park and strongly supports him today but is immune to guerrilla warfare. Communist agents slipping down from the North are immediately reported to the police.

The antithesis is the anti-Park urban middle class of Seoul, particularly intellectuals and students who are Park's loudest critics and the target of his security decrees. But the students lack broad support. Leaders of the opposition New Democratic Party (NDP), generally deploring Park's suppression of dissent in his May 13 decree, say privately his ban on student demonstrations is probably necessary while the northern threat continues.

Actually, the May 13 decree has resulted in only two arrests, both nonpolitical, a fact derived from opposition and diplomatic sources—one arrest for forged travel documents, the other for currency manipulation. A demonstration at Seoul National University was halted and the students expelled, but nobody was imprisoned.

The decree has ended all public criticism

but not all political discourse, as witness what happened here after a U.S. Senate subcommittee revealed a clandestine $4 million contribution by Gulf Oil to Park's ruling Democratic Republican Party in 1971.

Although not a word appeared in the shackled Seoul press, news spread through the city's political grapevine. Accordingly, Oh Le Sung, a tough young NDP leader, rose in the national assembly under protection of parliamentary immunity to ask the Prime Minister a pointed question about Gulf's payment.

But outside the assembly where he has no immunity, we heard Assemblyman Oh roast Park in front of pro-Park assembly members. A private citizen saying the same thing might promptly have been visited by the Korean Central-Intelligence Agency, the nation's secret police force. But the existence of even limited criticism indicates less than total repression.

Security restrictions are challenged with Park's government. Foreign Minister Kim Dong Jo, a diplomat (former ambassador to Tokyo and Washington) in a government of generals, is quietly attempting some relaxation of controls. There is no secret that he is supported, discreetly, by the U.S. embassy.

But Park, as we reported after our interview with him, is not budging. He tells aides he is determined to control the students and not permit them to become a disruptive political force, as in Thailand. Noting lack of American response when he released 200 political prisoners in February, the President privately suggests he would not get much credit from critics in Washington for anything he did.

What worries both friends and foes of Park is this question: Will he step down in 1976 when his term ends? In one recent private conversation, he expressed a desire to retire before he died and added poignantly that his wife, assassinated last year, would be alive today if he had done so earlier. If Parks stays on, he might start losing support rapidly—including businessmen, increasingly important in this now industrialized society.

Although Park's future may decide the fate of Korean democracy tomorrow, the watchword here today is national survival. That Koreans regard becoming another domino a far worse calamity than infringement of civil liberties is a fact to be pondered by American congressmen who suggest the U.S. abandon Korea as it did Vietnam because Park Chung Hee is insufficiently democratic.

Mr. GARN. To sum up, Mr. President, we often discuss the areas of conflict between our system of government and the Communist systems in terms of sports, with nicely chosen sides, and rules to be observed on all sides. We speak in terms of counters, and scores, and victories and losses. In all of this, Mr. President, we are accurately reflecting the fact that there is a contest going on, but we run a risk of minimizing the importance of the conflict. The truth is that the conflict is a mortal one, with almost infinite stakes on each side. It is a conflict in which the force of arms is only one technique, and by no means the most important one, employed. For my part, I wish to make it clear that I support the present Government in South Korea, without excusing its faults. We cannot hope to see in other nations the blessings that have come from 200 years of government restricted by law. We must content ourselves with allies which provide some degree of individual freedom and initiative to their citizens, and who are not characterized by the expansionist philosophy which so clearly marks our Communist opposition.

Korea is important to the stability of the international situation at this time. We must be prepared to defend Korea against Communist aggression whether overt or covert. In this effort, we must educate the American people and leaders to the nature of the threat and the seriousness of the stakes of the game. Communist activity is heating up in Korea because of our perceived weakness following the defeat in Vietnam. We cannot afford another such defeat. The future of the free world depends on our standing firm.

SOUTH KOREA

Mr. McCLURE. Mr. President, it is interesting to note that one of the most common complaints about our Government is that it is unresponsive. That is first a rather vague remark. But you hear it so often it is worth examining. Congress particularly gets low marks with the citizens of the United States. That in itself is surprising. Judges on the bench and entrenched executive bureaucrats have less reason for immediate sensitivity to the citizens than do those who are daily involved in responding to their constituents.

Maybe we do not really do our homework—and I stress the home part of the word. After all the Washington Post will tell us Jane Fonda's side of any story, but not what hundreds or thousands of your constituents or mine who express themselves along more conventional lines.

It should not come as a shock to Congress that a Harris Survey, taken in May after the fall of Vietnam and Cambodia and after the *Mayaguez* incident, showed that 43 percent of the American people favor using U.S. troops, air power, and naval power to defend South Korea in the event of an invasion by the North. Opposed were 37 percent. But should that invasion occur, I can well imagine that the response of much of the press and of the Congress would be to the effect that we should depart immediately and leave the Koreans to decide their own future. It would be considered unfair, doubtless to suggest that their future would be determined by Communist Chinese. Abandonment of Korea would not constitute a provision of choice for the Korean people. It would only preclude any possibility of choice.

If the United States does not live up to her Korean commitment, and if this failure is in the name of peace, the results may prove ironic. Peace achieved by running away could promote still graver problems for the future. The United States must learn what the Communists know so well. Nothing exists in a vacuum. For every act there is a consequence. It became fashionable to scoff at the domino theory—after first inflating it out of all recognition. Now that the dominoes are down, the phrase is conveniently being phased out.

It is not exactly coincidental to the fall of South East Asia that we are facing renewed threats in Korea today. I point this out not to play the unpleasant game of "I told you so," but in the hope that we can look somewhat more realistically at the future.

It is important to determine what the long-range significance of Korea is. Korea, the ancient land bridge between Japan and Asia mainland is now, in the words of one official, cocked like a pistol at the head of Japan. The effect of a Stalinist Communist Government like that of President Kim backed by a combination of Communist and Soviet Communists would require careful analysis.

First, we must ask how likely is an invasion of Korea. We should look beyond press reports of increased tension at what the Communists logically might conclude from recent events. What could President Kim of the North be expected to conclude? First and most certain, that the United States does not help her friends. Second—and additionally ironic—she does not abide by her treaties. Third, that when she defaults on an obligation, she is not on the side of aggression, like the Soviets, but in the premature acceptance of defeat, or desire to avoid conflict. At this point, the West should consider the remark of Lin Piao, "Revolutionaries never take a gloomy view of war."

Some are encouraged by the fact that North Korea shares borders with both China and the Soviet Union, presumably this could serve as an additional wedge in their mutual strife but President Kim would probably be justified in concluding that however reluctant the two powers might be at assisting him in an invasion of the South that they would in the end have no other choice. He might draw, from his own point of view, an even more hopeful conclusion. This would be a result of analysis assistance given North Vietnam by the major Red powers. Their disagreement was generally productive of Communist aims, far from providing self-canceling influences. They were competitive in their efforts to assist the local Communists in South East Asia. The competition continues today as Moscow makes invidious comparisons between the disorganized Chinese effort to change life in Cambodia and its own more efficient and less provocative approach in Vietnam. The United States should learn that all disagreements between Communists do not militate in our behalf.

The next point to examine is what the possible effects of isolation might be upon Japan. In the short run she might tend to be as accommodating as possible to the Communists. This could hardly redound to the benefit of the United States. Japan, as the third largest economy of the world, absorbs the bulk of American agricultural exports and exports more to the United States than to any other country. Why, Mr. President, is it necessary to wait for any or all of this to happen before we can react to it? The United States has not only no strategic sense, she credits no one else for it either—even when that strategy is laid before her.

Why is it so hard and getting harder for Americans to examine the possibilities and come up with plans. You do not have to talk militaries. Maybe it is obscure to ask why the United States

does not examine the options and establish priorities but the long-range solution for Japan in view of the United States neglect is to build her own nuclear arsenal. While it is true her Constitution now prevents rearmament, that problem could be rectified. While the United States speaks grandly of the evils of nuclear proliferation, we at the same time seem to do our best to achieve it.

We speak of not expending lives for foreign countries, but we will not help those countries help themselves. We complain about the cost of living up to our international obligations, but fail to recognize that strong allies are the cheapest resource available. We talk of achieving world peace, but by a series of backward steps encourage our antagonists to test our commitments to it by a series of limited wars.

We must be sure to avoid the kind of logical trap the United States has fallen into before. We begin by proclaiming our adherence to détente. We insist this involves some nebulous form of good will shared by the Soviet Union. The Soviet Union then assists our enemies in a way clearly articulated by the Secretary of State as not in the spirit of détente. Specifically, it may "exacerbate confrontation" and "threaten civilized life." At this point the U.S. liberals always cite the reason for our country's nonresponse as the preservation of détente. Détente is therefore the end for which the Soviets strive and the means by which the United States accommodates them.

In the long run this can lead by a series of surgical excisions to isolation. Now isolation may be a position the United States wishes to take. Look at what our raw materials situation is—How can we replace our import and export trade, what will we do for energy and a host of other problems that would follow upon the isolationist posture?

It would also be useful if the United States were to plan within the announced context of the struggle as defined by official Soviet spokesmen. It might be as well to analyze and put in context such remarks as:

> Today the content of the alliance between world socialism and the national liberation movement and the content of the entire world revolutionary process consist in the joint offensive against imperialism and capitalism as a system of social relations, in the struggle for the victory of socialism.

Another idea to explore before determining any national policy is that there is a sense in which any geographical entity is equal to any other. The basis for this equivalent would depend upon whether or not we are defending a philosophy embodied in a free way of life, or simply a series of islands and peninsulas which happen to have some traditional status as allies. It seems clear to me that the Americans represented in the Harris poll have answered that question.

Mr. President, I do not know what answers the Congress would give to these questions. I hate to think. I can guess what the majority of the eastern press would say. But I think perhaps the Congress and press might do better to listen to the people than to lecture them.

There are several things we can do now to remember this sad anniversary in a manner consonant with U.S. history. We can live up to our commitments to Korea under the 5-year plan.

We can also make it quite clear to the Communists that the *Mayaguez* incident was not a freak. Small targets serve Communist purposes in that they are useful in perpetuating "limited wars." They have a disproportionate value. But the value does not have to be all on the other side as we compare, for example the *Mayaguez* and *Pueblo* incidents.

On the military side we must not withdraw or give the appearance of withdrawing any support of South Korea. To do so could be to give the signal to the North to invade.

With respect to the Communist propaganda let us continue to speak candidly and honestly. Let us discuss how the North furthers détente by building under the demilitarized zone. How is peaceful coexistence furthered by arrangements to place armed infantry troops behind southern lines? Why does a nation with no subversive intent find it necessary to provide a means of entry for infiltration agents during peacetime? Let us be sure we keep the argument where it belongs in other spheres as well. Before I hear any explanation of South Korea's partial restrictions of civil liberties I want to know why there is a total restriction in the North and when it will end. The South can be discussed only when the North catches up.

THE REPUBLIC OF KOREA

Mr. BUCKLEY. Mr. President, the Korean peninsula has been the scene of major clashes between the major powers of the world on three occasions during this century because of its contiguous borders with both China and the Soviet Union and its linkage to the security of Japan. The best way to prevent another clash between the major powers is to maintain the military balance between the two Koreas so that neither side has an incentive to initiate a new conflict, a conflict that could involve the use of nuclear weapons.

We are in danger of falling into the same syndrome which was directly responsible for the catastrophe in Vietnam. While we pay lip service to fulfilling a "commitment" as in the case of the 1973 Paris Accords on Indochina, and in the case of Korea, to our commitment to modernize the South Korean Army and Air Force, but in practice we do not live up to it by failing to provide the military assistance in the form of vitally needed military hardware.

The Soviet and Chinese allies of North Korea have not been similarly reluctant to supply needed hardware for their ally. While the United States has fallen $474.5 million short of its undertakings to make military equipment transfers and sales to modernize the Korean Armed Forces, the North Koreans have received sufficient aircraft to provide them with a 3-to-1 superiority in combat aircraft, and a significant advantage in armor, especially tanks.

The problem faced by the South Korean Armed Forces is exacerbated by the terrain of the Korean Peninsula. A ridge of mountains runs down the Korean Peninsula from north to south inhibiting cross-country movement by Korean troops in an east-west direction. The United States has not supplied the Koreans with adequate mobility equipment to permit the rapid redeployment of troops in Korea from one side of the country to the other. Thus, although there is a nominal advantage to South Korea in terms of manpower, this advantage is dissipated due to the problems of moving troops. The manpower advantage attributed to the South Korean Armed Forces disappears entirely when one counts the paramilitary civilian organizations in North Korea which perform most of the support functions normally performed by military personnel in South Korea.

Too often the strategic significance of this peninsula is not well understood, which at least partially explains the willingness in some quarters to ignore events in the region. The common border of Korea with both China and the Soviet Union has made the area a focus of big power rivalry for many years. Moreover, Japan has always considered it vital to her security interests to have a nonhostile nation occupying the south portion of the Korean Peninsula nearest to the Japanese mainland. Following the Russo-Japanese War in the early years of this century, Japan occupied Korea and continued to do so until she was expelled by American and Soviet forces in 1945. Since that time, South Korea has been in friendly hands, and has thereby facilitated the feelings of security in Japan which has been further enhanced by the U.S. nuclear umbrella. If South Korea should suffer the same fate as South Vietnam, the changes in the political-military complexion of Japan could be enormous. Thus, the security interests of the United States in the peace and stability of the military situation are directly involved.

A somewhat less appreciated fact about South Korea is the economic dynamism which has been unleashed in the past decade. Since 1965, the Korean economy has been growing at a 10-percent annual rate making it one of the most prosperous of the developing nations of the world. Its exports are nearing the $2 billion mark with the United States and Japan as its major trading partners. South Korea is clearly a nation which can survive economically providing the military equilibrium in Korea is maintained.

On this, the 25th anniversary of the Soviet-sponsored invasion of South Korea, our attention should be drawn to the importance of maintaining a military balance in the area to guarantee that the North Koreans are not provided by our inaction with the temptation to launch another war.

THE REPUBLIC OF KOREA

Mr. CURTIS. Mr. President, today marks the 25th anniversary of a day of infamy, the Soviet sponsored invasion of the Republic of Korea by the puppet regime of North Korea. That regime is led now by the same man who was put in office by the Soviet Union after World

War II to run the local Communist regime in North Korea, Kim Il Sung. The same regime is now uttering statements which have the same aggressive ring that similar statements had on the eve of the invasion of South Korea in 1950.

We all know too well that the bitter no-win war cost us over 33,000 combat deaths and a total of more than 160,000 casualties. The war concluded with an armistice, not a peace treaty. The territory of the two Korean states has remained approximately where it was drawn by the occupying U.S. and Soviet forces at the end of World War II, at the 38th parallel. The ambitions of the North Korean regime, like that of the North Vietnamese was to challenge the status quo when they perceived a moment of opportunity.

Less than 2 months ago the North Vietnamese took advantage of congressional unwillingness to provide adequate military assistance to the Republic of Vietnam, and were then able to overturn the status quo established by the 1973 Paris Accords.

The collapse of congressional resolve in Southeast Asia has encouraged the North Korean regime to believe that congressional resolve may also fail in Korea if an attack is launched by the North.

To this end, the North Korean regime has not had to suffer from any uncertainty over generous support from their Soviet and Chinese allies; allies whom, it should be noted, share a common border with North Korea. The North Koreans now enjoy a 3-to-1 advantage in the number of combat aircraft. Moreover, fully half of the South Korean aircraft are F–86's; which have been obsolete for 20 years.

One cannot underestimate the importance of sufficient aircraft for the maintenance of air superiority in Korea. We must not forget that the demilitarized zone is less than 50 miles from the center of Seoul, the capital of South Korea. Thus, if the South Korean Government loses the ability to control the airspace in the vicinity of the DMZ, it exposes millions of its citizens to aerial bombardment. In addition, the South Koreans would lose the ability to reduce the North Korean tank threat by being able to attack the swarms of tanks the North has available with air power. Without air power, the South could have its GNP-producing potential almost entirely destroyed in a matter of days because of the weight of North Korean arms.

There is a considerable degree of confusion in the press as to the balance of military power in Korea because of the statistic cited of the larger number of troops in uniform in South Korea versus the number in the North Korean Army. It is stated that because the South Korean Army has 625,000 men under arms compared to only 467,000 men under arms in North Korea that there should be no danger to South Korean security from enemy forces.

As a practical matter elements of organization, terrain, and logistical issues tend to offset the difference between the two armies. The North Koreans tend to have large civilian paramilitary organizations conscripted to carry out support functions normally done by military forces in the south. Moreover, the South Korean Army must be spread out along the entire DMZ to prevent the North Koreans from conducting a flanking attack around Seoul. The North Koreans need only mass their forces in one place for an attack. We have had a policy of not providing the South Korean Army with adequate equipment for mobility on the grounds that we did not wish to be "provocative" by providing the South Koreans with the means to move north. As a result, they do not have adequate means to move their forces quickly from one part of South Korea to the other to respond to the massing of North Korean forces. Thus, the South Koreans must maintain a larger force-in-being.

In addition to the military dimension of the Korean problem, we cannot overlook the political significance of Korea to peace in Asia and peace in the world.

An accident of geography has made the Korean Peninsula of immense strategic interest to three major powers, the Soviet Union, Communist China, and Japan. Communist China and the Soviet Union share a common border with the North Korea, and thus would almost certainly be involved with the resupply of the North Korean armed forces. The portion of China bordering North Korea, Manchuria, is the most industrialized portion of China, and has by far the best transportation system in China facilitating Chinese support. The Soviet Union would almost certainly be a major participant in any future conflict with two Koreas if for no other reason than the rivalry between the two Communist nations.

The Korean Peninsula is separated from the main Japanese islands by a narrow body of water which is normally traversed by a ferry. Korea has always been a vital security concern of Japan; a hostile regime occupying the southern portion of the Korean Peninsula would almost certainly create a substantial political shock wave in Japan which could result in a change in the attitude of that economic giant toward military forces and nuclear weapons with untold consequences for history.

The Korean Peninsula has seen three wars in this century; all of which have had major involvement including the Russo-Japanese war in 1905, World War II, and the Korean war. In every case, Korea has been the prize which has resulted from the weakness of one of the major powers in the area. We cannot afford to allow such a development to occur again.

The Korean people are determined to make the sacrifices necessary to prevent their domination from the North. Whatever the faults one may find with the current government in Seoul, there is no doubt that given the choice the Korean people have, it is considered by them to be preferable to the Communist alternative. We can help to insure that Korea will not become the world's next crisis point by strong congressional resolve to provide with adequate materiel, moral, and diplomatic support in the midst of the bombastic propaganda assaults from the North Korean regime.

SOUTH KOREA

Mr. GOLDWATER. Mr. President, this week marks the 25th anniversary of our assistance to South Korea when it was invaded by North Korea. In recent years there have been increasing cries from some segments of the American public for us to reduce our military presence and assistance in South Korea, especially since our withdrawal from Indochina. There are others who advocate total withdrawal of both U.S. forces and assistance.

Mr. President, I would not want any nation to believe that those views are in any way representative of U.S. policy toward South Korea. They are not. Other nations must not confuse our withdrawal from Indochina as being indicative of our future relations with South Korea.

Over the past 25 years we have seen South Korea mature to become a prosperous and significant ally in northeast Asia. Let us not forget that during our trial in South Vietnam, she was the only ally that made a really significant manpower contribution to the ground forces. It is true the United States bore the cost of that effort but, we could not buy the will and the gallantry displayed by the South Korean troops. South Korea has proven herself as a loyal and worthy ally.

Mr. President, we should remind ourselves of our commitment to South Korea and how continued stability in northeast Asia bears directly on our own security. Our commitment there was undertaken more explicitly, more openly and with greater consensus than was our commitment to South Vietnam. Let us not lose sight of this important distinction. Our commitment to Korea is much deeper and much more crucial to stability in Asia.

Let us also not forget the character of the North Korean regime. It is the most militant of all the Communist states. Its leader is a tyrant and the regime has no sense of direction other than the forceful subjugation of South Korea. The North Korean Government, if one can call it that, mistreats its own citizens just as it treated illegally the crew of the *Pueblo*.

Mr. President, what is the attitude of South Korean citizens toward North Korea? While there has been some disagreement among South Korean citizens about their own Government, they are completely united in their hatred of what the North Korean Government stands for. Under no circumstances are they interested in uniting the two Koreas as long as the character of North Korea remains as it now is.

Our commitment to South Korea continues to be based on the belief that nations have the right of self-determination and should not, unwillingly, be subject to the military power of another nation that would destroy that right. But, Mr. President, I do not delude myself that this commitment is not also in our interest. Certainly it is and it will continue to be in our interest for sometime to come.

Nevertheless, we should not expect present arrangements to last forever. However, changes should come slowly and be well thought out by both the United States and South Korea. Let us not forget that the South Koreans are a

proud people and an industrious people. They do not want our military presence and assistance a day longer than is required and they are working hard for total independence.

Mr. President, our actions to assist South Korea 25 years ago are something we can be proud of as being representative of the finest American ideals and traditions. Those ideals and traditions are still valid today and they have continued to stand the test of time as they will stand the test of the future.

PANAMA CANAL

Mr. STENNIS. Mr. President, as we all know, the State Department for about 18 months has been trying to renegotiate the treaty governing the Panama Canal and Canal Zone. As early as February 1974, Secretary of State Kissinger and Panamanian Foreign Minister Tack reached agreement on the general principles which would serve as guidelines for the new Panama Canal treaties. Negotiations on these matters are apparently proceeding satisfactorily as far as the negotiating parties are concerned.

I have followed these negotiations closely, Mr. President, and have now gone into the entire question of our interest in the canal as thoroughly as possible. I am greatly concerned by the possibility that new agreements will be negotiated which will be inimical to our vital national security interests. I fear that our fundamental commercial and security interests will not be adequately safeguarded unless the United States continues to exercise responsibility for the defense of the canal as well as sovereignty and jurisdiction within the Canal Zone area.

We are all aware of how strategically important the canal has been to us in the past—World War II, for example. It may very well be equally important in the future. We would be in a very difficult situation militarily if we became again engaged in a two-ocean war and found that we were denied the use of the canal. In addition, the defense of the canal itself is essential and that is the vital strategic function performed by the U.S. military in the Canal Zone. We must insure that we maintain a sufficient military presence within the zone to protect our interests in the canal directly and to deter the ambitions of powers hostile to the United States.

Negotiation of the proposed new treaties, Mr. President, has met substantial opposition in the Congress, the Department of Defense, and many interested groups in this country. Recognizing that the approval of any new treaties will require a two-thirds vote of the Senate, I hope the State Department will go very slowly in its negotiations, and will consider carefully before reaching any final agreement. While improved relations with Panama are possible under the existing treaty I do not think, at this time that we can surrender the rights and status which presently exist.

I shall pursue this matter further with the utmost interest. It is clear to me that we are such a vital and necessary force in the free world, our problems will not quickly disappear and could well increase during the next decade.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for not to exceed 15 minutes.

BALANCED GROWTH AND ECONOMIC PLANNING ACT OF 1975

Mr. JAVITS. Mr. President, when Senator HUMPHREY and I introduced the balanced growth and economic planning bill last month, I said that I viewed this as the opening of a great national debate on the American economy and its future. I am greatly pleased by the tremendous response that this bill has received. We had expected that there would be substantial interest in the bill, but even we had not expected the outpouring of editorial comment and in-depth analysis of economic planning.

This is precisely the sort of response that rekindles one's faith in the political process and its ability to generate ideas and reach out to gather inspiration from the American people. In fact, it is this sort of response that the planning bill seeks to engender and systematize with regard to national economic objectives. In the process of this debate, it is inevitable that there will be misinformation and misunderstandings, deliberate and unintentional, about the type of economic planning we have in mind and the specifics of our bill. It is important to set the record straight at this point so that an accumulation of misunderstandings and false labels, such as "garden variety socialism" to quote the Wall Street Journal, does not weigh down the bill and prevent a fair consideration on its merits.

For, a major portion of the bill deals with securing local participation and commentary on proposed plans and that calls for adequate understanding to begin with. As Mr. George Hagedorn, chief economist of the National Association of Manufacturers, emphasized in testimony on economic planning before the Joint Economic Committee last week, planning means a different thing to almost everyone who talks about it. Mr. Hagedorn—and I intend to quote his very thoughtful comments on planning at some length later on—made it clear that he would welcome certain types of planning but would vigorously oppose planning that treated the economy as if it were a wet lump of clay to be molded by the Government. I feel that opponents of even voluntary economic planning—without any effort really to examine the details of our planning bill—have set up the strawman of the most extreme definition of economic planning in order to try to discredit the bill.

For example, Leif Olson, vice president of First National City Bank, managed to drag in a quote from Premier Kosygin of the U.S.S.R., in his testimony on economic planning, even though he admits that there is absolutely nothing in our legislation that requires the private sector to conform to the plan.

Similarly, in a Wall Street Journal editorial of June 17, on the planning bill, the editorial writer manages to pin a label of "garden variety socialism" on the bill—a term which would surely puzzle Marx or Lenin—while simultaneously admitting that there is nothing in the bill calling for the Government control over—let alone take over—of the means of production, the standard measure of socialism as a policy.

I am delighted to have our bill debated on the merits, but I am distressed that a generally reputable and thoughtful newspaper like the Wall Street Journal would indulge in name calling.

Although Senator HUMPHREY and I have both repeatedly stated that our planning bill is neither mandatory nor self-operative and has nothing whatsoever to do with the centralized planning of socialist states which set production targets and worker and consumer norms—I find it necessary to keep repeating those denials. Because economic planning is a novel concept to Americans, the first inclination in some is to think of the socialist model. Planning must be an integral part of the Soviet economy, because there it is true that planning supplants the free market. However, even the Soviets have learned that it is necessary to subject some portions of their economy to a limited free market system if their plants are not to spew out millions of unwanted left shoes.

On the other hand, Americans are probably less acquainted with economic planning in France and the Scandinavian countries, where there is substantial evidence that it has had a salutory effect on their economies. A recent article on Sweden in the Wall Street Journal makes it clear that although Sweden is a welfare state in spending, it has managed to encourage capital investment, saving, and productivity much more successfully than either Great Britain or the United States. This is achieved by providing business with a relatively stable economic climate—in contrast to our on-again off-again approach as for example in our handling of the investment tax credit in the United States—and by providing Swedish corporations with generous incentives. The result is that in 1972 Sweden collected 3.9 percent of its tax revenue from company income taxes while the comparable figure for the United States was 11.2 percent. The Swedish example makes clear a point I have repeatedly stressed—that planning is a neutral tool that adapts to the character of the country. This simple truth should allay fears that we are introducing a socialist device, at the same time that it tempers our expectations that planning will solve every problem in this society.

There are a number of arguments made against Government economic planning and I will try to list these arguments and deal with them. It should be clear from what I said previously that certain arguments rest upon the assumption that our planning bill intends to supplant the free market. Hence, I state once more that our planning bill will only set economic objectives and determine what resources are available to meet them. Yet, even if we set aside this basic

misconception relating to displacing the free market, we must nevertheless deal with arguments against any type of planning.

First, it is argued that economic planning is inconsistent with less Government regulation and interference with the economy.

This argument, best illustrated by Walter Wriston's article in Newsweek, assumes that the inevitable direction of Government planners is to substitute their judgment for individual judgments. However, it is clear that our bill grants no such powers to planners even if it were their inclination. As I have stated previously, opponents of planning do not seem to want to believe that it can be a force for improving competition or abolishing outdated government regulation.

But more important there is good evidence that planners do not necessarily have a proclivity toward police state behavior. As an example, the Wall Street Journal of June 18, 1975, contained a very interesting article by Timothy D. Schellhardt, on the success of the tiny Council on Wage and Price Stability in forcing other Government agencies to examine the economic impact of their rules and regulations on business and consumers. When one recalls the hue and cry raised in Congress by conservative forces and the business community when the Council on Wage and Price Stability was established, it is interesting to find that its actions have drawn praise from the business community. This is once again an example of the business community's often negative approach to government initiative only to discover later that these were actually in their interest. Just as business has discovered that the Council on Wage and Price Stability can be a flexible tool to make the operation of Government more efficient, it is just possible that they may discover the same thing about an Economic Planning Board.

It is worthwhile to look at some of the criticisms of the Employment Act of 1946 by business representatives who expressed alarmist fears. It is as if the needle stuck in the same groove of the same old record for 30 years.

James Donnelly, executive vice president of Illinois Manufacturers Association, said in testimony opposing the Employment Act:

> The result would be a system of so-called planned economy with lower standards of living, more government spending, an avalanche of legislative panaceas and bureaucratic mandates, impairment of confidence, and eventually, the destruction of economic and political freedom.

Likewise, Nathan S. Sachs of Sachs Quality Furniture, Inc., said on May 10, 1945:

> This bill, if enacted, would ultimately lead to such planned economy and regimentation which is dramatically opposed to the free enterprise that has made this country so great. Under such a planned economy and regimentation, our very democratic way of life might ultimately be in the balance and lost to us forever.

Therefore, it is most appropriate for me to quote my famous predecessor from New York, Senator Wagner, who replied to such arguments as follows:

> In earlier years, it was customary on the part of those who yearned for the past and feared the future to brand every proposal as being a step toward regimentation and the destruction of the American system. More than a century ago this argument was used against those who proposed free public schools. Later, it was used against Abraham Lincoln when he campaigned for internal improvements for the country. The same argument was made against the creation of the Federal Reserve System, the enactment of the income-tax law, the regulation of the stock exchanges, and the establishment of the right to collective bargaining.

Second, the free market, while not perfect, is the best system available and should not be interfered with—so goes the second argument.

In the first place, I have already stated that our bill does not in any fashion supplant the free market. However, no one seriously believes that is the intention of our bill.

The real fear is that planning means the Government will intervene more frequently and systematically in the economy. Without planning the Government will follow its consistently inconsistent course of limited intervention—in certain areas and times, especially hard times, but without a systematic approach.

But let us get to the heart of the matter. The President speaks about more individual initiative and hard work and his audience is the small business community. These qualities should, of course, be greatly encouraged and the small businessman can do a great deal for himself and the country. But though small business numerically is the overwhelming proportion of private enterprise in the country and even employs somewhat more than one-half of the work force, standing alone it is not the final answer to our Nation's economic problems and if this were the President's only target he could miss the real problem by miles.

Indeed, we have to worry about small business precisely because big business has demonstrated such effectiveness in determining the nature of markets and the success of the economy. The individual initiative and hard work which the President called for are certainly admirable but the spirit reflected is addressed essentially to the theory of a stable economy attributable to multitudinous private transactions. This essentially pre-World War I or perhaps even pre-World War II approach—though 1932 was the occasion of its greatest breakdown—has some relevance, but it is not decisive because today our society has determined that it cannot accept the privation for many of the rank and file which go with the indispensable peaks and valleys of a multitudinous transactions free enterprise economy. Hence, the Roosevelt administration saw the opening of an American economic era that called for governmental intervention to absorb as much as possible the shocks and disappointments of an economic system based on the multitudinous transactions system.

The prime consideration, of course, is the fact that we wish to keep the great majority of our population in private employment as the surest guarantee of political freedom. Side by side with this development has been the development of new concepts of technology, marketing, and financing. In today's world many corporations are as big as nations. In many cases they are impervious to normal market pressures of a free enterprise economy. They are sometimes able to increase prices while demand declines. They are frequently able to frustrate demand or create artificial demand for given products.

This is quite apart from the effort to manipulate both the public and public officials to ward off efforts to end abuses and to right the economic balance on behalf of workers and consumers.

It is this frame of reference which demonstrates that hard work and individual initiative alone will not suffice for thousands of untrained teenagers who want a job, or for workers in automobile factories who have no wish to be laid off but are, because of the failure of economic policies of the last few years.

If we really took off all Government regulation, can we guess what the results might be? They might include a rapacious competition for energy without regard for the social cost; continued production of unsafe, low mileage, pollution-producing automobiles; aerosol sprays with ozone destruction capabilities; outrageously priced or downright dangerous drugs; nutritionally inadequate, but heavily energy-intensive packaged foods; an even more and increasingly inadequate national transportation system; plus vastly increased pollution, more consumer frauds, and the starvation of already inadequate consumer services.

There are already major areas where the free market does not operate such as oil and transportation. It is perfectly possible to secure greater competition through more careful planning, but merely getting the Government out of certain aspects of the economy will not restore competition—in fact, it may reduce it.

As I have said before, government is more involved in our economy because it is more complex, because we face environmental and resource limitations for the first time, and because social objectives are pursued more vigorously. None of these constraints will vanish in the absence of planning. We cannot turn the clock back to the agrarian society of open spaces, and clean air and water, at the time of our independence. Our greatness as a nation has rested on our ability continually to interpret our Constitution while clinging to fundamental values to meet changing circumstances. We are not true to ourselves if we pretend that 18th century economic solutions are adequate to today's world. To follow such antiquated path will cause ever increasing numbers of Americans to become misfits in the economic system, and thus cause their economic powerlessness to vent its frustration in the political nihilism. Let those who would have us blunder through our own and the world's complex economic system look to and be responsible for the consequences of their acts.

Third. A third, and related argument, is that planning seeks to substitute government choice by planners for individual decisions. The implicit assump-

tion in this argument is that people are now free to make a vast variety of meaningful choices.

I wish first to challenge the assumption. It is undoubtedly true that people have major choices among trivia, such as the types of razor blades they wish to use. They can also choose from among a vast assortment of deodorants, hair sprays, frozen foods, tires, shoes, and various other items. It is beneficial to be able to choose among these items, and as we are reminded ad nauseam the Russians are not fortunate enough to be able to make such choices. What is lost in the obfuscation on this issue is that the Swedes can make the same choices, but also get a national health care scheme, and a safer environment.

There are more fundamental choices than the trivial ones—in employment, housing, education, and leisure time use. Americans are fortunate in the great scope of freedom in these significant areas, but let us not get carried away as to what freedom means in certain contexts. Before the JEC hearings on planing last week the witness was incensed because the Government imposed a minimum wage which he said:

> Prevents the young and the unskilled from exercising the fundamental freedoms of negotiating for a job on their own terms.

This is known as freedom for employers to control the job market for their benefit, but I do not think you will find many teenagers or unskilled workers who would be enthusiastic about this freedom.

At the most important level in our lives we have very narrow options open to us, or perhaps no options at all. Our system is not adequately equipped to deal with trade offs between public and private services. There is a vast market for canned dog food, but why should our elderly be forced to subsist on inadequate diets? The dogs are lucky to have owners who care for them—the old people should be so lucky.

Or in education we have vast sums available for violent or simple minded television programs, but our education system produces virtual illiterates in too many cases. Could we not strike some better balance?

We cannot really choose between less polluted air and big, gas guzzling cars, because someone else's choice pollutes my air.

Do we really need so much plastic packaging if it litters the landscape permanently?

I want to single out in particular a statement by a "high official" close to the President, quoted by Philip Shabecoff in an article in the New York Times on planning, who insisted that economic planning was really a euphemism for an imposition of values on the public by government. People may make bad choices about the kind of television programs they watch or the kinds of cars they buy, but they are their choices, he said. With centralized planning, the Government would impose those choices, he asserted.

Note first of all the typical erroneous assumption about the powers in our bill; next the ease with which he passes judgment on the choices people make, allowing him to slide easily past the possibility that the fault lies not with the people, but with resource allocation, the allocation of its use and the absence of national goals and objectives in our society.

Fourth, one school of thought finds planning perfectly acceptable for corporations, but quite unacceptable for Government. The reason for this, as stated by the Wall Street Journal, is:

> Unlike corporate planning, which generally leads to decisions with an eye to maximizing efficiency and profits, government economic planning is dictated by political goals that are often inimical to efficiency.

Aside from the near revolution such a statement should inspire a number of comments on this argument. It is correct that political goals sometimes may be inimical to efficiency but efficiency is neither the exclusive property of private enterprise nor necessarily the highest virtue in our society—ours is not yet a corporate state.

It just may be that one source of our current economic problems is too great concern with "efficiency" in Government. In the name of efficiency millions of Americans could be consigned to the scrap heap of endemic unemployment in order to try to shave some fractions off inflation. Even if the trade-off works, our society has larger, more humane goals than efficiency alone.

It is likely that the development of a plan under our bill will require political compromise, and that is altogether proper. That is after all what the political system is about—to articulate and set in a legal framework the goals and means to achieve those for the society. Economic policies, to be accepted politically, must serve social ends, not vice versa.

That does not mean that there is a direct causal link between political compromise and economic "boondoggling" as the Wall Street Journal implies—planning like any other human activity can be voluntary and good or involuntary and bad.

The Government makes hosts of economic decisions, some based on a good deal of political compromise, without any traces of inefficiency or boondoggling; that is, the rate of growth in the money supply, tariff levels, income tax regulations and collections, international monetary matters, Eximbank credits, mortgage, casualty, and investment insurance, and on and on. It is plain that the Federal Government will make thousands of economic decisions in the future—even millions.

The question is whether these will be informed or haphazard, related to other economic decisions or unrelated, with adequate data or without, with some thought for the future or none.

If corporations are to take a look at where their companies and the economy are heading, it seems appropriate for the Government to do the same. In fact, it might just assist them with their planning if they knew with greater certainty what Government intended. For example, Business Week recently ran a very thoughtful article on corporate planning dealing with a slower rate of growth in the United States and its implications. Precisely the same issue ought to engage the Economic Planning Board, in considering the implications of slower economic growth on employment opportunities and the educational system. The manipulation of aggregate demand is inadequate to deal with such a problem.

There is a great potential for updating and harmonizing our information gathering system, for presenting this data to Congress and the people in a form useful for decisionmaking, and for realizing that the planning process is one that will help us choose more wisely and in less ignorance. No planning mechanism can prevent Congress from acting in willful ignorance, but at least with planning of the type we propose the people can see our shortcomings more clearly and both Congress and business—including labor—will see the nettles which have to be grasped and the available options. Just as the new Budget Act holds our feet to the fire, so will the Balanced Growth and Economic Planning Bill.

Fifth, a final argument made against planning is that recent government economic policy does not give one great confidence in the ability of government to be farsighted. A corollary is that if the plan and the economy began to diverge, the Government would be tempted to enforce the plan rather than change it.

In many ways, this is the most difficult argument of all because of the erratic nature of our economic policy in the last decade. Economic planning will introduce no magic stability into this decisionmaking arena, and will only be worthwhile if it is used wisely.

However, one can think of many examples of how it might have been used in recent years to avert poor decisions. Even then it requires a political will to act on better information. As examples, the devaluation of the dollar and the imposition of wage and price controls on domestic sales in 1971 caused an unexpected and very substantial outflow of basic materials and food from the United States, contributing to shortages at home and ultimately to higher prices. The Economic Planning Board might have pointed out the interconnection between the two.

Our agricultural policies have been extremely short-sighted and ill-planned. Everyone knows of the Russian grain deal, but perhaps we have forgotten the freeze on meat prices, which led to meat shortages, or the slaughter of calves when feed grain prices shot up beyond the ability of farmers to make a profit on raising calves. And, acreage restrictions continued long after shortage of grain was well known.

Although over the last few years we had a plethora of reports on the shortage of natural resources, especially the possibility of energy supply disruptions, we still have not developed a national energy and resource policy. This is perhaps the most discouraging failure of Government today. Planning would offer no panacea, but it might have forced us to deal with the issue much earlier, with more attention to the totality of the problem and with a more realistic perception of our options.

Planning can give us a road map of where we are going. It cannot force us to choose the road we take. But it helps the

driver to know whether the road is paved or bumpy—the same can be said of the alternatives the Economic Planning Board will present.

Our hope is that the planning bill will introduce a longer term view in Government economic policy. Since the plan is only a tool, and since our bill calls for revisions of the plan every 2 years, it is our clear intention that we will change the plan with circumstances rather than vice versa.

I have tried to present what I see as the five main arguments against Government economic planning, and my answers to these arguments. In the course of doing this, I have made several arguments in favor of economic planning as embodied in the balanced growth and economic planning bill. I think these points are summarized most effectively by a distinguished representative of the National Association of Manufacturers, Mr. Hagedorn, the chief economist who testified before the Joint Economic Committee last week as follows:

Mr. Hagedorn said:

I suppose the reason we are all here is that all of us sense that something has gone wrong in the American economy. A lot of things have gone wrong in the American economy. We have an accumulation of problems, macro-economic problems, inflation, unemployment, under-utilization of our productive capacity. Then we have a whole sequence, a cumulative sequence of special problems, energy, transportation, health care, a problem of a shortage of capital and what seems to have been happening is that none of these problems really gets solved so that we keep adding new problems without really eliminating any from the list. And the problems that we have seem to get worse rather than better.

Now, I think probably all of us would agree too that this indicates a need for planning at least in the general sense that we have to take a more rational, systematic look at our economy and figure out what has gone wrong with it, what has been the causes of the various troubles we have seen, and what are the cures. Not deal with surface symptoms, but really analyze the problem out. We sense the need for that type of planning.

We need to plan too in a way that we, and especially you in Congress, can consider all of the consequences of your actions, not just the immediate results, but the results over a longer period. And the indirect as well as the direct effects, effects of the choices that they make as a nation, the ultimate as well as the immediate impact of what may be done.

Our machinery is, our machinery for policy making has concentrated on short-range problems, immediate problems and direct effects of what we may do. We need to take a longer, more critical look at all of these things.

I could not have stated the need for our program of economic planning better than Mr. Hagedorn. It is extremely important that we engage a wide spectrum of opinion in the debate on economic planning. Business unfortunately has an almost congenital tendency to be negative about any innovation in Government, and thus Mr. Hagedorn's open-minded approach is particularly refreshing.

Planning should not be an ideological issue. Planning will not alter the fundamental values on which this Nation is based and it must be in keeping with the character of the society. I have long believed that our freedoms are based upon the tension and interplay between Government and the private sector.

No one wishes to see the balance destroyed by bloated Government slowly squeezing out the private sector. But that balance cannot be maintained through ignorance. The private sector, with its narrow focus on profits, is interested in economic freedom only in the sense of its corporate objectives; and corporate power is already too strong and concentrated to ignore this danger.

The planning bill is a means for providing the information, analysis, and alternatives we need in this frighteningly complex world so that we can continue to nourish our traditional dedication to human freedom in the midst of technological change.

Mr. President, I ask unanimous consent to have printed in the RECORD with my remarks various newspaper analyses respecting the pending bill.

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

[From the Los Angeles Times, June 8, 1975]

FINANCIAL CRISIS DEMANDS LONG-RANGE FORECASTING

(By Robert Lekachman)

General Motors plans model changes three years in advance. Your telephone company buys whole forests to supply telephone poles 10 to 15 years in the future. Prudent parents begin saving for college shortly after the blessed event.

The federal budget is a plan for the spending of something like $350 billion a year. Congress has now adopted a budget procedure under which it sets a target level of appropriations every year instead of doing it piecemeal.

In other words, as far as they are able, prudent men and women, alert corporations and efficient governments do their best to make provision for the future.

Of course, the trouble with all these plans is that they are often made on the basis of inadequate information for periods that are much too short to resolve the problems toward which they are addressed. In the wake of the 1973 Middle Eastern war and the oil embargo which followed, for example, the federal government was unable to plan a rapid response because the only data about existing stocks of oil were in the possession of the oil companies themselves—and in fragmentary and ill-coordinated form at that.

For many national policies, including defense, energy development, restoration of the railroads and environmental protection, the 12-month federal budget cycle is simply much too short. What we need is an orderly, rational way of handling on a national scale over a period of years—sometimes of decades—the priorities which now are registered in a disorderly, sometimes inconsistent fashion by existing political mechanisms.

It should be clear by now that orthodox policies, such as manipulating taxes, federal spending or the money supply, simply do not control inflation, allow full employment or offer answers to specific crises like the depletion of American energy resources.

Intelligent businessmen like Robert V. Roosa of Brown Bros., Harriman & Co., J. Irwin Miller of Cummins Engine and Felix Rohatyn of Lazard Freres and Co. have come to perceive that planning is an essential answer to the economic crisis. They have been joined in this realization by labor leaders such as the United Automobile Workers' Leonard Woodcock and eminent social scientists like Harvard's Nobel laureate in economics, Wassily Leontief.

Fortunately, the signs are becoming ever more numerous that Congress, too, is moving in the direction of national economic planning. Last month Sens. Jacob Javits (D–N.Y.) and Hubert Humphrey (D–Minn.) introduced the Balanced Growth and Economic Planning Act of 1975 which breaks new ground in economic policy. The bill establishes an economic planning board in the executive office of the President charged with developing a growth plan which incorporates "coherent and realizable long-term economic goals consistent with the nation's economic resources" and identifies "the policies and actions that would be required to attain such goals."

It should be emphasized that the planning procedures which Javits and Humphrey propose are not a substitute for normal political processes. Both the President and Congress will have ample chance to revise, reject and modify proposals made by the Economic Planning Board. On occasions, when the country is in a conservative mood, it is likely that the economic plan adopted by Congress will emphasize the interests of large corporations and affluent individuals. When liberals are in office, by contrast, the plan will no doubt place more emphasis on income maintenance, tax reform and redistribution of large fortunes.

The promise of planning is its capacity to move more efficiently and more consistently toward any set of objectives which the political process determines to be important. During the 1950s, for example, President Eisenhower's Paley Commission on raw materials warned that we were using up such assets as oil, metals and lumber at a dangerously rapid rate. If there had been an orderly mechanism of long-run planning in those days, it is possible that we would not now be scrambling for a solution to the problems which OPEC has thrust upon us.

Planning, in short, is the application of organized rationality to enduring problems of national importance. Our present mini-depression exemplifies the consequences of failure to plan. The Ford Administration has publicly accepted the probability of high rates of unemployment for the next 3 years. President Ford is widely praised as a man of kindly disposition and good intentions. High unemployment in 1976 obviously will not improve his chances of staying in the White House and swimming in the new White House pool. Why does this good man accept a situation which destroys the hopes and aspirations of millions of Americans and loses the United States more than $150 billion each year of unproduced Gross National Product? It is because his conservative advisers with their limited techniques see no way to do anything substantial about unemployment without irritating the inflationary dragon which has just begun to calm down.

The alternative to planning, let me emphasize, is not free markets. It is disorder and drift. At many places in the economy today we do not have free markets. We have varying degrees of market control by large corporations, plus regulation by public agencies. Planning will not eliminate free markets where they now exist. Planning will allow businessmen—like the rest of the community—to make individual provision for the future within a stable and predictable national economy.

[From the Washington Post, March 20, 1975]

"PLANNING" THE ECONOMY

(By Hobart Rowen)

Back in 1962, when President Kennedy instructed his chief economic adviser, Walter

Heller, to study economic planning in Europe, "planning" was a dirty word. And it still is. To some, "planning" means government regimentation, socialism, and the end of the free enterprise system.

Of course, it doesn't have to mean any of those things. More and more enlightened businessmen, such as Henry Ford II, have come to realize that a certain amount of intelligent planning may make the difference between the prosperity of the private sector and economic chaos.

A nation that could successfully plan to put a man on the moon ought to be able to come up with a blueprint for social and economic needs, and achieve it without the worst extremes of boom and bust.

Utopia? Maybe, but maybe not. Anyway, the whole question of planning has been surfaced again by a group of thoughtful businessmen and labor leaders under the co-chairmanship of UAW President Leonard Woodcock and Wassily Leontief, the Nobel Laureate in economics from Harvard University.

It has strong backing in Congress from Sen. Hubert Humphrey (D-Minn.), Sen. Jacob Javits (R.-N.Y.) and others. And there is cautious support for the general idea among influential Ford administration officials, including Vice President Rockefeller and the new Secretary of Labor John T. Dunlop.

The Woodcock-Leontief proposal is to coordinate economic policymaking functions now distributed among the Council of Economic Advisers, the Budget Office, and other government agencies, in a new Office of National Economic Planning.

Its main responsibility would be to collect and analyze information from all sources, and then submit alternative intermediate (5 to 6 years) and longer-term (15 to 25 years) plans to the President and Congress. The final choices among alternatives proposed would be in the hands of Congress.

Myron E. Sharpe, coordinator of the Woodcock-Leontief group, notes that the planning office "would not set specific goals for General Motors, General Electric, General Foods or any other individual firm.

"But it would indicate the number of cars, the number of generators and the quantity of frozen foods we are likely to require in, say, five years. And it would try to induce the relevant industries to act accordingly."

The intent, the sponsors say, is not to replace the "market" system, but to give it better information to work on. This is a bit disingenuous. Obviously, a planning system that is worth the trouble is going to mean more government intervention in the economy.

But it need not be a planning system, French style, which relies on the European cartel tradition. As Williams College Professor John Sheehan observes in the current Challenge Magazine, "If ITT were a French corporation, the Planning Commission would be its natural ally."

What we require, instead, is an agency in Washington that will begin to think in terms of rational economic growth, and how to get there.

Without planning, what happens? We wake up these mornings to find that Congress is trying to bail out Lockheed, Pan Am and Chrysler with tax handouts, and that the Rock Island railroad is going broke—with its trackage to be distributed to other roads.

In transportation, as in other areas, Woodcock observes, the nation must decide how much it should depend on cars, how much on rapid transit, how much on other forms. After debating alternatives, he says, "we should decide on a plan of action instead of leaving it to chance. . . . Let's match the resources with our goals, and our goals with the resources. That's what we mean by planing."

Is the climate right for such a major exercise in economic planning? There is a growing skepticism, based on bad performance over the past few years, of the ability of economists to project into the future. But defining goals would be more than an economic or computerized forecast. The process would have to draw on the advice and wisdom of state and local officials, union leaders, businessmen, consumers and others.

Almost everyone understands, by this time, the growing degree of international economic interdependence. If the energy crisis did nothing else, it drove home the lesson that natural resources are not inexhaustible.

The choice, as New York banker Robert V. Roosa says, "is not between plan and no plan, but between coherent planning and chaotic planning."

[From the Christian Science Monitor, May 27, 1975]

DEBATE ON LONG-TERM ECONOMIC PLANNING BEGINS

(By David R. Francis)

BOSTON.—Senators Jacob K. Javits (R) of New York and Hubert H. Humphrey (D) of Minnesota rapped the gavel last week on what they figure will be the opening of "a great national debate."

They introduced legislation to set up a governmental system for the formulation of long-term economic planning for the United States.

Actually, the debate—and it promises to be a hot one—got going late last February when a new private group calling itself the "Initiative Committee for National Economic Planning" announced its formation and goals. Its cochairmen are Leonard Woodcock, president of the United Automobile Workers, and Prof. Wassily Leontief of Harvard University, originator of input-output economics.

Members of the group are prominent enough that some conservatives immediately saw a grave threat.

For instance, Walter B. Wriston, chairman of Citicorp, the nation's second largest bank, holds that the Initiative Committee's program, if adopted, "could bring about the step-by-step destruction of the free market system, and, as a consequence all personal liberty.

"There is no case of government planning not implemented in the end by coercion."

Adding some rhetoric, he told the Society of American Business Writers earlier this month: "In place of the NRA (National Recovery Administration) and Mussolini's Blackshirts of another era, we have new groups with new names selling the same worn-out concept of government planning as 'Progress.' "

Those are strong words for referring to a group of liberal—but deeply democratic—individuals backing the national planning idea. It was obviously a case of overkill.

But "planning" is a word that has an enormous emotional content for those raised in a period of thriving communism and socialism. The automatic reaction for many is to think of the authoritarian and rigid planning of the Soviet Union or other communist nations.

The fact is that national planning is a neutral economic tool. It can be used to impose fascistic or communistic governmental authority on a people. Or it can be substituted for the ad hoc "planning" already implemented in the United States. Indeed, a national plan could be devised that would reduce the amount of regulation imposed on industry.

After decades of legislation, businessmen today face thousands and thousands of rules and regulations that attempt to shape their activities in line with national needs as seen by Congress. Dealing with environment, competition, safety, job conditions, etc., these rules are sometimes contradictory, often expensive, usually complex. They already direct economic activity to a large extent.

"Let's face it," says Mr. Woodcock. "We don't live in a small laissez faire economy any more. We live in a large, complex, technological society in which planlessness means massive dislocations."

Because of the forcible opposition the new planning drive has aroused among many businessmen, Senator Javits stressed that the planning provisions in the bill "do not permit any economic coercion, direct or indirect."

That is apparently so. Nevertheless, it also is likely that competent planning might result in Congress deciding on new regulations or financial incentives and penalties to steer private enterprise toward various goals. These could replace or add to present interference in the market place.

The hope of the planning enthusiasts, however, is that planning would produce better information and thus more intelligent direction.

Professor Leontief argues that various aspects of the country's economic life should "be analyzed not in isolation, but as the interdependent problems they really are. We suggest the development of alternative courses of action—plans, if you will. These should be tested for international consistency and technical feasibility and offered for public inspection, debate, and then decision, in accordance with the rules of the political process."

For this purpose, the Javits-Humphrey bill would set up an Economic Planning Board in the Executive Office of the President. It also provides for congressional review and approval or disapproval of each plan developed by the Board. And it provides procedures for public participation in the planning process.

Today, the nation has many problems in such areas as energy, transportation, food and raw material requirements, urban conditions, and pollution that need long-term solutions. Intelligent planning—rather than short-term remedies—could help.

[From the New York Times]

FIVE STEPS TO ECONOMIC HAPPINESS

(By Robert Lekachman)

(NOTE.—Robert Lekachman is Distinguished Professor of Economics at Herbert H. Lehman College of the City University of New York.)

Full employment did not cause the Great Inflation of 1974 and 1975. At a shade below 5 per cent, 1974's average unemployment was high enough to lose elections in Western Europe.

The greedy labor unions didn't start inflation. A few outsize construction contracts aside, wages have been lagging far behind the cost of living.

Huge Federal deficits don't explain double-digit inflation. The deficits grew because tax revenues fell. They fell because people lost jobs, small businessmen went broke and large corporations cut payrolls instead of prices.

Inflation is explained by (1) OPEC price policies; (2) global boom in demand for American farm products; (3) Federal Reserve expansion of money and credit during the 1972 Presidential campaign; (4) two devaluations of the dollar; (5) the tendency of large corporations (as in autos) to raise prices while demand shrank.

We have been experiencing lots of unemployment and lots of inflation. Yet between 1961 and mid-1965, more sensible economic policies steadily reduced unemployment while allowing the cost of living to rise a mere 1.5 per cent annually.

When Gerald Ford, Treasury Secretary William Simon, Arthur Burns, chief of the Federal Reserve, and Alan Greenspan, chairman of the Council of Economic Advisers—the Four Horsemen of economic calamity—warn Congress not to stimulate an economy which is producing $200 billion less than its full employment capacity, they tacitly admit that dominant corporations will inflate prices at the first sign of recovery and compel unions in self-defense to play catch-up.

Claiming that the United States cannot afford full employment, the Ford Administration advises June graduates to wait around three or four years until unemployment sinks to 6 per cent in 1979. These partisans of unemployment tell women, blacks, and Hispanics to bear uncomplainingly layoffs from jobs that affirmative action got them only a year or two ago.

The United States really can't afford unemployment. Each extra 1 percent unemployment costs 900,000 jobs, $50 billion of unproduced goods and services, and $14 billion in uncollected taxes. This is the financial bill. Human costs include destroyed hopes, exacerbated group tensions, reduced standards of life, and more crime, drug abuse, and mental illness.

Americans can enjoy price stability and full employment at the same time, but not by accepting Nixon-Ford economics. The five essentials of a new approach are these.

(1) Return to the objective of full employment. The Humphrey-Hawkins Equal Opportunity and Full Employment Act greatly strengthens the 1946 Employment Act by committing Congress and the President to full employment and budgeting and policies.

(2) Increase economic stimulation immediately. By cutting taxes only $21 billion, Congress has thus far done less than half its work. As soon as possible, it should appropriate $10 billion to create a million new public service jobs, another $10 billion for public works, and a final $5–10 billion for social benefits.

(3) Harness the Federal Reserve. Congress should reassert its constitutional role by directing the President, subject to Congressional approval, to set money supply goals for the Federal Reserve.

(4) Regulate concentrated industries. Once recovery begins, market power asserts itself. Congress should bite the bullet and create a permanent price control agency empowered to roll back extortionate price increases and require notice and justification of proposed price alterations.

(5) Move toward sensible, democratic planning, the response screamed for by policy disarray in energy, food, environment, and employment. The Humphrey-Javits Balanced Growth and Economic Planning Act proceeds in the right direction.

The only alternatives to rational direction of a disordered economy are mass unemployment, rapid inflation, or a mixture of the two.

[From the New York Times, Mar. 16, 1975]

THE CASE FOR GOVERNMENT PLANNING—THE ECONOMIC SHIP MAY RIGHT ITSELF, BUT SOMEBODY IS NEEDED TO STEER

(NOTE.—The following proposal was made recently by the Initiative Committee for National Economic Planning, a new group headed by Wassily Leontief, the Harvard University economist, and Leonard Woodcock, president of the United Auto Workers.)

Few Americans are satisfied with the way in which the economy is now operating. Unemployment is increasing and prices are rising. Inflation in the United States has become a source of instability in the world at large. No reliable mechanism in the modern economy relates needs to available manpower, plant and materials. In consequence we have shortages of housing, medical care, municipal services, transportation, energy, and numerous other requirements of pressing importance.

We have not made it our business to foresee these critical problems and to take steps to forestall them. We do not plan. But in a modern economy, planning is not a matter of preference or ideology. It is one of immediate need. In its absence we will all suffer. This suffering is avoidable.

We therefore urge that provision be made for planning at the highest level of the United States Government and through regional, state and local units of administration. This effort must be backed by education, by the widest public discussion of the methods and objectives of planning, and by full public participation in the planning process.

We believe that economic leadership must be exercised in a new way through an Office of National Economic Planning. This agency must be in a position to perceive our country's economic and social needs now and for many years to come and to provide the public, Congress and the executive branch with alternative plans of action—not only to enable us to avert hardship and disaster, but to guide the economy in a direction consistent with our national values and goals.

Planning is neither strange nor unfamiliar. Every individual and business plans for the years ahead. Our space program is a good example of planning in its most sophisticated and successful form. It also illustrates the magnitude of the effort that must go into national economic planning.

Nevertheless, the principles are simple. First, from a set of feasible alternatives, a definite and realizable goal was decided upon: to carry a man to the moon and bring him back to earth. This required setting up a long-range program to fulfill the mission. All the necessary information had to be gathered in a consistent and useful form. Then, step by step, the program had to be carried out in the required sequence, the results monitored, and corrections made whenever necessary.

Just as it would have been impossible for a man to go to the moon and back by accident, it is impossible for us to achieve our economic objectives by accident.

But the most striking fact about the way we organize our economic life is that we leave so much to chance. We give little thought to the direction in which we would like to go. We make no consistent effort to balance different parts of the economy. We do not attempt to ensure the resources are allocated to meet our most urgent national needs. In fact, we know that they are not so allocated.

Instead of systematically trying to foresee the needs of the nation in years ahead, we have dozens of separate, uncoordinated agencies making policy in this area and that, without any thought of how it all fits together. We have over 50 Federal offices collecting economic data, in most instances insufficiently detailed, frequently obsolete, often contradictory and incompatible.

No single office is responsible for setting appropriate standards and bringing these data together so that they can be used to pursue coherent national objectives. We make economic policy from quarter to quarter or year to year without any perspective on where the economy is going or where we want it to go.

The mere cataloguing of these problems discloses the inadequacy of our present economic techniques. We therefore recommend that the Office of National Economic Planning be established with these features:

Plenary power to accumulate and analyze detailed economic information from all sources;

A mandate to examine major economic trends and work out realistic alternative long-term economic programs for periods of 15 to 25 years, to be submitted to the President and Congress;

A mandate to work out alternative plans of intermediate length, such as five or six years, to be submitted to the President and Congress, designed to carry us toward our long-range objectives; and

Responsibility to specify the labor, resources, financing and other economic measures needed to realize these programs and plans.

Needless to say, all programs and plans must be periodically reviewed and revised as changing circumstances require.

Let us examine how the planning office would go about its work. Its function would be to develop programs in specific areas where there are discernible national needs. Energy, transportation and housing are obvious examples. But it is clear that a planning office cannot look at energy alone, transportation alone, housing alone, or at any other sector of the economy in isolation. All these sectors interact, draw on scarce resources, require definite numbers of workers with specific training and require financing.

Above all, planning is a way of looking at economic problems as a whole, providing the information needed to set explicit priorities in the use of resources, and guiding all sectors of the economy toward the attainment of our chosen goals. A planning system must balance resources with needs, set goals that can be realized, and inform the public what the choices really are.

The heart of planning is to go from information to action. Most of the action in the United States economy takes place in the private sector. Democratic planning is not a substitute for a decentralized economy nor does it replace the millions of private decisions that are made in the market every day. Rather, to reach democratically chosen objectives, it influences those decisions with a consistent set of economic techniques.

The means of influencing those decisions are already familiar to us. Some, such as tax incentives and disincentives, and traditional monetary and fiscal policies, influence individual actions indirectly. Others, such as selective credit controls, guidance of basic capital flows, limits to the use of air, water and land, and mandatory resource allocation, affect individual actions directly.

All these measures have been used at one time or another by the Federal Government, but—save in World War II—in a haphazard fashion, with no view to their overall effect. The purpose of planning is to provide that view.

It should be clear that the planning office would not set specific goals for General Motors, General Electric, General Foods or any other individual firm. But it would indicate the number of cars, the number of generators and the quantity of frozen foods we are likely to require in, say, five years, and it would try to induce the relevant industries to act accordingly.

One of the best persuaders available to the planning office is information. The flow of goods, services and money from one industry to another can be grasped in great detail through the use of input-output and other programing techniques. The planning office can provide a continuous stream of detailed information about how various sectors of the economy mesh—and are expected to mesh in the future—enabling individual companies, as well as Federal, state and local governments, to make enlightened and coherent decisions about production and consumption.

In order to be effective and useful, an

Office of National Economic Planning must be set up at the center of our economic and political life as one of our most influential institutions. To provide leadership at the highest level, we propose the establishment of such an office within the White House, provided with sufficient funding and supported by a professional staff large enough to carry out its many functions.

The director of the new body should be designated as the chief adviser to the President for economic affairs. The office should oversee the implementation of the national economic plan within the executive branch. Accordingly, the membership of the board of this office should be composed of high Administration officials and be supported by an advisory group representing the best talent of business, labor, farmers, consumers, minorities and other sections of society.

We also propose that the President's Council of Economic Advisers be made a part of the office and continue to concentrate on short-run problems of full employment and stabilization, usefully supplementing the long-run concerns of the office.

It goes without saying that the final choice among all feasible alternative planning objectives and programs belongs to Congress and that the execution of all laws embodying planning policy is the responsibility of the Administration. Congress and the executive branch must be equal partners in planning. We therefore recommend that a Joint Congressional Planning Committee, supported by a Congressional Office of Planning, with the necessary funding and technical assistance, be established to oversee all planning activities and to initiate and review legislation.

But to be successful, planning has to be undertaken with the full understanding, acceptance and support of the public. The participation of representatives of all important economic and social interests in every phase of planning is essential. Regional, state and local units of government must fully share in the planning process.

Every national forum—the press, Congress and the executive branch—should be used for a continuing airing of opinion on planning goals and methods. A network of committees representing every area of economic life should be available for mutual consultation with members of the planning office.

No one can possibly argue that planning will solve all our problems. Nor will it reconcile conflicting interests among different sections of our society. These will continue to be contested in the political arena as before. But planning can spare all of us the sense of helplessness we feel as the economy drifts from crisis to crisis and replace frustration with a sense of hope, with the conviction that we can, in fact, exert some control over our affairs.

Nor is planning an easy task. It is one of the most difficult enterprises that any society can undertake. But the technical capability and know-how exist to do the job. We believe that the hard thinking, work and experimentation required by a planning effort will be repaid many times over.

National economic planning has become an economic and social necessity.

[From the New York Times, June 18, 1975]

PLANNING THE ECONOMY—DESPITE APPEARANCE OF TENTATIVE STEPS, FORD REMAINS DEVOTED TO "FREE MARKET"

(By Philip Shabecoff)

WASHINGTON, June 17.—Recent developments in this city would seem to suggest that the United States Government is taking some tentative steps toward a planned national economy. On Capitol Hill, Senators Hubert H. Humphrey, Democrat of Minnesota, and Jacob K. Javits, Republican of New York, have introduced a bill to establish a national economic procedure under a new Federal agency called the Economic Planning Board.

In the White House, President Ford has strengthened the executive committee of the Economic Policy Board and directed it to meet daily to consider short- and long-range national economic problems. The committee is now working on such problems as capital formation, the international economy and the role of Government in the private sector.

Also in the White House, the President's Domestic Council is setting up "review groups" to look at such long-range problem areas as food, transportation and energy and to propose programs to deal with these problems.

LESS THAN MEETS THE EYE

But there is somewhat less going on here than meets the eye. Judging by comments from members of their staffs, the two White House groups are interested in ways of reducing, rather than increasing, the impact of the Government on the marketplace.

The Humphrey-Javits bill, it is acknowledged here, would be, if enacted, a major step toward central economic planning, albeit on a voluntary basis. The proposed Economic Planning Board would be empowered to submit a "balanced-economic-growth" plan, which, after review by advisory groups, would be submitted to the President and to Congress.

A plan providing guideposts for economic decisions for as long as four years in advance would then presumably be adopted.

REMINISCENT OF COOLIDGE

But the Ford Administration is not likely to go along with a central economic planning agency. President Ford is probably the least receptive chief executive toward Government intervention in the marketplace since Calvin Coolidge.

Mr. Ford made clear today just how firmly he might be expected to reject any suggestion of central economic planning by the Federal Government. In a speech to the National Federation of Independent Business he set forth his fundamental view of the relationship with business and industry.

"In the months ahead," he said, "we face a critical choice: Shall business and Government work together in a free economy for the betterment of all? Or shall we slide head-long into an economy whose vital decisions are made by politicians while the private sector dries up and shrivels away?

"My resources as President—and my resolve as President—are devoted to the free-enterprise system.

"I do not intend to celebrate our Bicentennial by reversing the great principles on which the United States was founded."

Some of the President's close advisers in the White House tempered this rhetoric somewhat in their comments, conceding that planning could sometimes be appropriate.

L. William Seidman, Assistant to the President for Economic Affairs, noted in an interview that the Government had an important planning role in supplying information about the economy, which the marketplace could use in reaching its decisions.

The Federal Government also engages in planning for the budget and on monetary policy, he observed.

There are, in addition, some areas where market forces do not operate freely, he said. One of these is the energy area, which is dominated by the Organization of Petroleum Exporting Countries. Therefore, some Government planning in energy is required and appropriate, Mr. Seidman said.

But there is a basic difference between the Ford Administration and the kind of view embodied in the Humphrey-Javits proposal, he added.

"Basically, the difference is that we think that the private sector can and should be the ultimate decision maker as to what we should produce rather than some politicians," he said.

Another high-ranking economic adviser to the President asserted that central planning of the economy by the Federal Government was an impossibility because "the technical capacity of economists for that kind of planning is nonexistent."

He said that economists could make projections of what would happen to the economy and that plans could be constructed on those projections.

"But what happens when the economy veers from the projections?" the aide asked rhetorically. He then answered that the plan would fall apart. He said the objection of the Administration to the Humphrey-Javits plan, which would be based on politically agreed on goals, was that the economy did not function in a way that made reaching those goals possible.

In the view of this official, and presumably of Mr. Ford and his Administration, the free-market economy is already "planned" in the sense that private enterprise makes millions of decisions that balance the economy.

PLANNING SEEN AS IMPOSITION

This official, who is close to the President but did not wish to be identified, insisted that economic planning was really a euphemism for an imposition of values on the public by Government. People may make bad choices about the kind of television programs they watch or the kind of cars they buy, but they are their choices, he said. With centralized planning, the Government would impose those choices, he asserted.

"That is what the debate on planning is all about," he said.

Those who advocate planning, of course, argue that the free-market system is not working so perfectly as the Administration claims. Critics point to the artificially induced oil-price increases, high food prices and food shortages, shortages in steel and a chaotic transportation system as evidence that some guiding hand is needed.

These critics also point out that the free market suffers from increasingly wider swings from inflation to recession.

Finally, these critics point to the increasing concentration of economic power in great corporations as evidence that the free-market system is less than free and, therefore, is in need of Government-directed planning.

CONCENTRATION OF POWER

But the Administration officials, while conceding the validity of some of the criticism, shrug them off as aberrations in an otherwise proven, continuingly effective system. There is no way, they let it be known, that the Ford Administration is going to accept even a semblance of national economic planning.

The prospects for the Humphrey-Javits bill, therefore, are none too bright. But now that the concept has been made formal in a legislative proposal, the stage has been set for a debate on central economic planning.

The issue has been debated before, but never in a world quite like today's. The debate could be a lively one.

Mr. JAVITS. I wish to read one paragraph from a piece of that kind published in the Los Angeles Times on Sunday, June 8, 1975, written by the prominent economist Robert LeCage. It reads as follows:

General Motors plans model changes three years in advance. Your telephone company buys whole forests to supply telephone poles 10 or 15 years in the future. Prudent parents begin saving for college shortly after the blessed event.

Only the Federal Government, among huge administrative entities, Mr. President, shuts its eyes and blindly refuses to look into the future beyond the 1 year that the Budget Committees and the Budget are in charge of; and even that 1 year, Mr. President, is a brandnew innovation, to take effect in 1976, not even in 1975.

HEW REGULATIONS AND WOMEN'S RIGHTS

Mr. JAVITS. Mr. President, in June of 1972, Congress enacted legislation providing that—

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving Federal financial assistance.

Sex discrimination in education takes many forms. Some courses are closed to members of one sex; pension and employment rights vary; athletic programs are restricted and financial aid distributed in a biased manner. Clearly we wanted to remedy these situations. But should sex education classes, for example, be coed? Should men and women be on the same collegiate wrestling teams, and should American colleges be barred from participating in the Rhodes scholarship program simply because it is offered only to males? Should textbooks and curricula be censored to eliminate sexism, or would that contravene both the first amendment and the traditional State and local role in this area? All these difficult dilemmas were thoughtfully weighed by HEW, and, I believe, effectively resolved in the regulations.

HEW had an extremely elaborate and participatory process which consulted relevant and affected parties. Rather than be accepted as the capricious whim of unknowing bureaucrats, as some have maintained, the method of arriving at these regulations is a model of responsive reaction to publicly expressed comment in the rulemaking process. For example, HEW held 12 regional meetings throughout the United States to discuss and explain the proposed rules when first issued. Its officials addressed over 50 meetings of interested parties. In addition, it allowed an extraordinarily long comment period so that all views would have the opportunity for expression and review by HEW prior to carrying out the statutory responsibility of promulgating regulations. HEW received and considered approximately 10,000 responses from citizens.

No conceivable set of regulations would be perfect. The HEW regulations as they now stand represent a series of difficult decisions which were made in the process described above both to implement protection of the necessary rights of women and to address transitional difficulties which could impair the education system. Let me emphasize that in no case is the law equivocal. The rights of women to an equal educational opportunity are a matter of statute and a matter of simple justice. However, moving the current education system to a situation where it is able to insure these rights is a major administrative task. It will require a great deal of good will, and also some enforcement activity by the Federal Government under the legal authority vested in the Office of Civil Rights.

I believe that, by and large, the educational community welcomes this guidance and is currently, without outside prodding of active enforcement under regulations, making major steps toward eliminating sex discrimination. However, as with all such matters, there needs to be proper regulatory authority and enforcement action when an educational system is unwilling or unable to carry out the law. For example, I find that HEW has used appropriate restraint in deciding not to take sex discrimination prohibition enforcement activity into the important field of curriculum and textbooks. As we have seen recently, the nature of curriculum material is of great interest to the general public, which has consistently demanded to maintain local control. I support local control of curriculum, but such local control cannot violate the law. A Federal intervention at this time in textbook and curricular matters would be, in my judgment, impossible to administer judiciously. Therefore, HEW has wisely maintained that sex stereotyping in curricular and textbook materials would not be within the scope of this set of regulations. Often critics of these regulations have maintained HEW is extending beyond the law. I find the instant restraint to be an important example of their respect for the intent and purpose, as well as the letter, of the law.

HEW has not been shy in accepting constructive criticism, and in modifying previously held views or proposals as to how to best carry out the title IX authority. However, after serious and prolonged consultation it now has the regulations which would implement the title IX authority, thus carrying out more effectively the intent of Congress in passing the original title IX legislation in 1972. The period for deliberation has been completed. This is not a time for a retreat. Congress has an opportunity to enhance HEW's ability to enforce the law against sex discrimination. It is an opportunity that must not be missed.

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

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

AND ATTACKING SEX BIAS

The new rules approved by Mr. Ford for ending educational discrimination against schoolgirls and college women are welcome.

Not so welcome is a companion HEW proposal to stop responding to individual civil-rights complaints. Such a step which would permit HEW's Office of Civil Rights to pick and choose among complaints before investigating, could mean lessened enforcement of racial as well as sex discrimination laws.

The Department of Health, Education, and Welfare was required under Title IX of the 1972 equal rights law to formulate rules to end discrimination against women in education. The administration's proposals, if approved by Congress after hearings, would open traditionally sex-stereotyped courses like shop to boys and girls, eliminate sex-based favoritism in admissions and scholarships, and require equality in noneducational facilities such as housing on campuses. These nonathletic regulations will likely have greater significance for the equality of opportunity for women than the new physical education rules, which are attracting the most controversy.

The athletics proposals do not require institutions or school systems to raise spending on female athletics to current men's levels. But they do require that girls be allowed to compete, if qualified, on boys' teams in noncontact sports, or have the chance to play on a girls' team. In the lowerschool grades, schools receiving Title IX funds must merge gym and field classes for boys and girls, while maintaining separate locker-room facilities.

It would be well for the public not to be diverted by argument over the new sports rules, such as whether they imply that girls are the equal of boys athletically. Considered as individuals, many girls may be superior athletically to many boys. To note that in many physically demanding endeavors, like dance, the female performer reaches levels of vigor, endurance, and style at least equal to that of men is not to dismiss the distinction between male and female in expression, where that is relevant. Such arguments are best left to statistics and philosophy. It is not necessary to read sex-role significance into running, throwing a ball, or other elementary sports action.

Particularly for women, the general level of physical education in the U.S. is low—from instruction in basic posture and movement to athletic and recreational skills. The automobile and TV set have turned the country's youths, like their parents, into nonwalkers and nonparticipants. The female in society is, during her school and college years, directed into even more of a spectator role by school spending policies that imply sports are for "men."

The new physical education rules may have practical flaws. For instance, collegiate women's athletic groups are apprehensive that the male-dominated organizations are poised to take over their programs, threatening reduced rather than expanded female sports opportunities. But on balance the rules affirm women's rights to equal educational opportunity in admissions, scholarships, instruction, and facilities—athletic as well as academic.

HEW'S RULES ON WOMEN AND EDUCATION

With all the hullabaloo over the impact on college sports of the new federal sex bias rules, it is easy to overlook the real importance of those rules which is that they should open the country's educational institutions to women in a way they have never been open before. That will mean, in the long run, more female scholars and college teachers, more females in technical jobs, and, to some extent, more female athletes. The rules mean, simply, that the nation is taking another significant step toward a time when intellect and talent and competence in general will be recognized as such in all endeavors—whether academic or athletic—regardless of the sex of the person concerned.

In that sense, the fight over what these rules will do to sports and athletic programs is a side issue. The real impact of them will be on things that matter much more in life—things like admission to vocational and professional schools and public colleges, access to courses and scholarship funds, and employment practices. In these areas, as well as in athletics, educational institutions at all levels have consistently discriminated against women down through the years. The new rules, if they are properly enforced by HEW, will do much to eliminate that discrimination.

There is also a matter of basic fairness involved in the athletic programs and if it takes a complete change in the nature of in-

tercollegiate sports to produce that fairness, so be it. There is something fundamentally wrong with a college or university or, for that matter, a lower level school, that relegates its female athletes to second-rate facilities or second-rate equipment or second-rate travel arrangements solely because they are female. There is nothing in the Constitution or in the nature of the world that says only males can be athletes or that male athletes are entitled, if they are good enough, to free education, free food and free medical care.

Indeed, we suspect that there are a good many university presidents who, way down deep inside, are cheering that part of the HEW rules having to do directly with sports. The emphasis on all too many campuses has reached the point where it appears the purpose of the university is not to educate young people but to produce winning football or basketball teams. The presidents know this—and despair at what it is doing to their institutions—but many of them have felt unable to tackle the problem because of the power their athletic departments have with alumni. These new rules may provide the impetus they need to begin to bring the right perspective back to the campuses. If so, HEW's efforts will serve not only to give to women what is rightfully theirs but to restore some balance between what is meaningful in higher education and what is fun and games.

AGAINST SEXIST SCHOOLS

The new Federal guidelines against sex discrimination in the nation's schools and colleges combine a much-needed emphasis on equal opportunity for women with enough flexibility to prevent a dispiriting homogenization of educational institutions. Such a sensible approach to what is still an irrationally controversial area of social reform—and nowhere more explosively irrational than in sports—can be expected to draw fire from both ideological extremes.

Although some of the more esoteric aspects of sex discrimination are likely to attract most public attention, the crux of the matter is the prohibition of any bias blocking equal opportunity for female students and teachers at any educational level. Absolute equality is crucial in school and college admissions, financial aid, counseling and, in the case of teachers and other educational personnel, employment, pay and promotions.

The new rules quite properly prohibit the kind of sex stereotyping in education that barred girls from shop classes and boys from home economics. The justifications for such "male" or "female" subjects once put forth have long since been rendered obsolete.

The Department of Health, Education and Welfare has wisely resisted pressures to include the content of textbooks in its guidelines. Expert studies have provided ample illustrations that many of these teaching materials are indeed infected with male chauvinism, but Federal censorship is not the remedy. Local school boards and educators can better re-educate authors and publishers through care in selecting teaching materials.

In another constructive limitation of the general rules, the department sanctioned the continued existence of single-sex schools and colleges. Far from being an example of sexism, that exemption is an essential recognition of the importance of diversity in American education.

Far more vulnerable than any of the guidelines themselves, however, is the announcement that H.E.W. will no longer investigate individual complaints of discrimination. While some discretion is clearly in order to distinguish esoteric or crank complaints from legitimate grievances, any policy that ignores individual calls for justice can scarcely be considered law-enforcement. Secretary Weinberger cannot be faulted for appealing to the educational institutions' "good faith"; of * * * deeply ingrained habits of prejudice and exclusion in the absence of an effective mechanism for assessing well-documented individual complaints.

Mr. JAVITS. Mr. President, has my time expired?

The PRESIDING OFFICER. The Senator's time has just expired.

Mr. JAVITS. I thank the Chair.

DETERMINATION OF SENATE ELECTION IN NEW HAMPSHIRE

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, the Senate will now resume the consideration of Senate Resolution 166, which the clerk will state.

The assistant legislative clerk read as follows:

A resolution (S. Res. 166) relating to the determination of the contested election for a seat in the U.S. Senate from the State of New Hampshire.

The PRESIDING OFFICER. The 1 hour for debate provided under rule XXII will now begin, with the time to be equally divided between and controlled by the Senator from Nevada (Mr. CANNON) and the Senator from Pennsylvania (Mr. HUGH SCOTT) or his designee.

Who yields time?

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

The PRESIDING OFFICER. Without objection, the time for the quorum call will be charged against both sides. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

Mr. WEICKER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment No. 627 by the Senator from Pennsylvania.

Mr. WEICKER. What is the business of the Senate at noon? Has that been ordered? Is that the cloture vote at a time certain?

The PRESIDING OFFICER. The vote is not at a time certain, but the live quorum preceding the vote will come at 11:52 a.m.

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

The PRESIDING OFFICER. On whose time? The time is equally divided. On whose time does the Senator suggest the absence of a quorum?

Mr. WEICKER. On the time of the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HUGH SCOTT. Mr. President, I withdraw my amendment, which is the pending amendment, and send another amendment to the desk, on behalf of myself and the Senator from Connecticut (Mr. WEICKER).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HUGH SCOTT), for himself and Mr. WEICKER, proposes and amendment to Mr. ALLEN's amendment No. 605, as modified:

Strike all after the word "that" on line 2 to the end and insert in lieu thereof the following: "notwithstanding any other provision of this Resolution, the Senate seat from the State of New Hampshire for the term commencing January 3, 1975, is hereby declared vacant effective June 25, 1975.

On line 7 renumber (1) as (1)(b).

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The yeas and nays were not ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent to have printed in the RECORD a column written by Mr. George F. Will, published in the Washington Post of Wednesday, June 25, 1975.

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

STEALING A SENATE SEAT

(By George F. Will)

The Senate Democrats' attempt to steal a New Hampshire seat is a timely reminder that brazen majorities abuse power.

Last November's election produced a 355-vote margin for Republican Louis Wyman. A recount produced a 10-vote lead for Democrat John Durkin. Finally the state's bipartisan Ballot Law Commission examined protested ballots and unanimously declared Wyman a two-vote winner.

Without charging misdeeds, Durkin appealed to the Senate, which referred the matter to the Rules Committee.

In January the Democrats reduced the committee from nine to eight members by reducing Republican membership to three. No other nine-member committee was reduced.

Consider the Democrats' subsequent behavior:

On "skip candidate" ballots the voters marked the circle denoting a party-line vote, and added superfluous marks next to the names of individual party candidates, but skipped senator. In New Hampshire such ballots are always counted as votes for all party candidates, individually marked or not, so Wyman's representatives challenged only one Democratic "skip candidate" ballot, and that inadvertently.

But Durkin challenged 12 such Republican ballots, and the committee split 4–4 (Alabama's James Allen breaking with fellow Democrats) to exclude these ballots from the count.

Chairman Howard Cannon (D-Nev.) ruled that a tie vote on a disputed ballot eliminated the ballot count. This ruling, if upheld by the full Senate, will cost Wyman 12 votes.

The committee refused Wyman permission to protest the Democratic "skip candidate" ballots that he, obedient to state practice, had not protested.

The committee voted 5–3 to count as valid two absentee ballots allegedly cast by a

couple who were asked by a Democratic campaign worker to apply for ballots. The man has testified that neither he nor his wife ever received the ballots, and that he is not even registered. The signatures on the applications and ballots do not match.

The committee refused Wyman's request for a complete retally, although the Senate has voted retallies on three occasions. And so it has gone.

The full Senate (Democrats dominating, 61–38) will resolve 35 disputes that produced 4–4 committee votes. But the Democrats have been blindly partisan since January when they broke precedent, refusing to seat Wyman pending the investigation, in spite of the fact that his victory was affirmed by the highest official New Hampshire authority, and he possessed a valid certificate of election.

Republican senators and Wyman note that the number of disputed or missing ballots (some were destroyed before final review) far exceed any possible margin of victory. They want the Senate to declare the seat vacant so New Hampshire can have another election.

Durkins says he, personally, favors another election, but, alas, "We are on a constitutional trolley. We can't get off." But he could stop the trolley by telling the Senate Democrats that he will not serve unless they let the voters vote.

With his inane trolley metaphor Durkin is suggesting this: Because the Senate has examined New Hampshire's results, the Senate is somehow honor-bound to keep the issue away from New Hampshire voters.

This conclusion follows from nothing. It oozes from a tortured construction of the Constitution's provision that "each house shall be judged of the election of its members." That is, Democrats who bother to pretend that their attempted larceny reflects reverence for the Constitution say: The Senate will have failed to judge this case if it concludes that a new election is equitable.

This self-serving theory is based on perverse interpretation of the verb "to judge." The interpretation is that a judgment in favor of a new election is, somehow, no judgment. This theory does not merit confuting, other than noting that it is novel: The Senate on other occasions has judged that disputed elections should be settled by new elections.

Even with swollen majorities, Democrats have been too undisciplined to produce programs relevant to the nation's problems. But Senate Democrats are a virtually solid brute vote against letting New Hampshire pick New Hampshire's senator.

If "Watergate" now is an all purpose term denoting abuse of power, the Democrats are committing a Watergate in broad daylight, an especially raw abuse because it reflects their cynical assumption that the public is beyond disgust.

Mr. WEICKER. Mr. President, Mr. Will's column is entitled "Stealing a Senate Seat." It reads:

The Senate Democrats' attempt to steal a New Hampshire seat is a timely reminder that brazen majorities abuse power.

Last November's election produced a 355-vote margin for Republican Louis Wyman. A recount produced a 10-vote lead for Democrat John Durkin. Finally the state's bipartisan Ballot Law Commission examined protested ballots and unanimously declared Wyman a two-vote winner.

Without charging misdeeds, Durkin appealed to the Senate, which referred the matter to the Rules Committee.

In January the Democrats reduced the committee from nine to eight members by reducing Republican membership to three. No other nine-member committee was reduced.

The column then goes on to cite various examples of Democrats' behavior in this matter. But what I think is important is the last portion of the article, which states:

Durkin, says he, personally, favors another election but, alas, "We are on a constitutional trolley. We can't get off." But he could stop the trolley by telling Senate Democrats that he will not serve unless they let the voters vote.

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Even with swollen majorities, Democrats have been too undisciplined to produce programs relevant to the nation's problems. But Senate Democrats are a virtually solid brute vote against letting New Hampshire pick New Hampshire's senator.

If "Watergate" now is an all purpose term denoting abuse of power, the Democrats are committing a Watergate in broad daylight, an especially raw abuse because it reflects their cynical assumption that the public is beyond disgust.

I am delighted to note that, slowly but surely, the public is becoming very aware as to what it is that is going on here. That is the intention of this Senator: to keep the issue out in the sunlight, so that what is being done, for whatever reason, in whatever way, will come to the attention of the public. I am not going to stand here and accuse my colleagues on the other side of the aisle of stealing an election. I am going to say that I think their judgment has come very much into question. I think their ability has come very much into question. I think their perceptions have come very much into question. I think their commonsense has come very much into question.

I am delighted to see that the distinguished Senator from Pennsylvania, has, once again, offered to the Senate the only fair, commonsense, and decent way to resolve this very confused issue—specifically, to allow the voters of New Hampshire to make a decision.

I understand that there is a lot of talk that there is an unfair bias in favor of Mr. Wyman, because New Hampshire, by tradition, is a Republican State. I point out that if New Hampshire shares the plight of the rest of the Nation, certainly, their economic condition today is not any better than it was in 1974, probably a lot worse. Obviously, those matters are always blamed on the party in power, more specifically the party in power as it is reflected in the White House. So I do not think there is any question in my mind that the atmosphere is probably well-balanced up in New Hampshire should a new election take place. It is not with that in mind that Republicans are advising that it go back to the home State; rather that, regardless of the outcome, we can all have a sense of pride in that outcome. If Mr. Durkin is the winner, it will have been done fairly. More importantly, I think, it will have reflected favorably on this body and given it, too, its credibility.

It is amazing. I cannot help but point out to my Democratic friends that they have been unable to muster any sort of drive or solution to any problem confronting this country today. I am just as harsh on my friend down at the White House, also. Insofar as these huge majorities are concerned, both in the Senate and in the House, the Democrats have been unable to muster them and devise constructive alternatives to what the President is proposing. Yet on this one issue, totally a political issue, they have managed to get all their muscle together.

I think the Nation would be a lot better off if they would use that muscle to devise alternatives on energy, to devise alternatives to the problems of the economy, to devise alternatives on housing and on transportation. I do not think that the present incumbent in the White House has all the answers. I think his solutions can be improved upon. But, oh, no, they are unable to do that; but on a political matter, they are able to get it all together and sit here and try to ram through a decision which is patently unfair, patently biased, and patently ignores the facts as they have been presented before this body.

I suppose that is what is so discouraging to this Senator. We came out of the box, here, not in the mind of being able to put up technical roadblocks, but, rather, to present situations that, on their face, were illegal, on their face were fraudulent, on their face involved terrible judgment. And, really, the vote did not change at all—not at all; as if there were a predetermined result. I think that is what really stands to the disgrace of this body.

As I say, yes, I knew Louis Wyman when we served together in the House. But I am not out here arguing for him. I am arguing for a principle. The principle specifically is that we have given this enough scrutiny so that we ought to realize that we cannot do right by the State of New Hampshire. People keep on saying, oh, the Scott amendment or the Weicker amendment, whichever one they mention, is premature. It was premature in January, when we had substantial accord on the difficulties that were going to be involved. Then we put it up again somewhere around the beginning of June and, after 6 months, it was still premature. Then, when we made certain criticism or selected some of the issues and started discussing them this past weekend, again Senator BROCK and myself were called premature. Yesterday we were called premature.

But now the argument generally shifts. Now it is no longer premature. I heard the distinguished Senator from Nevada say yesterday that we have voted

on this already, so why vote on it again, even though before we should have turned it down, because it was premature.

Nobody wants to face up to the best way of doing things. It is too simple. It is too straightforward. It is too logical.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. WEICKER. I yield to the distinguished Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, the Senator has been talking about reactions, patterns. I think the pattern to take this election away from the people of New Hampshire began in January, at the time when the majority decided that the membership on the Senate Committee on Rules would no longer be five Democrats and four Republicans, it would be five Democrats and three Republicans. They deprived us of a member on that committee. It was the only nine-member committee in the Senate which was so reduced at that time. The purpose is pretty obvious.

Had we retained the 5-4 ballots, it is clear now that the Committee on Rules would have reported not 4–4 ties, not two separate reports, it would have come in with a 5-to-4 report on most of these tied issues, surely, certainly on the "skip-candidate" issue. The Senate majority would then have been confronted by the embarrassing fact that their own committee had recommended, 5 to 4, the adding of various ballots and the subtracting of various ballots in a formula which would have prevented them from doing what they always intended to do, take the seat away, unless they then decided to vote down their own committee.

So, from the beginning, there has been a sort of pattern here to take the election away. The holding back of these 12 "skip-candidate" ballots until nearly the last minute, then the assembling of them in a group so that, until then, the people on this side were not aware of the fact that they were more than a random selection of protests, and then deciding them in a group 12 times, contrary to the law of New Hampshire—all of these things, I suggest to the distinguished Senator from Connecticut, are part of the same pattern. That is why Mr. Will, in today's Washington Post, says.

> If "Watergate" now is an all purpose term denoting abuse of power, the Democrats are committing a Watergate in broad daylight, an especially raw abuse because it reflects their cynical assumption that the public is beyond disgust.

Only in the last 24 hours, a very distinguished senior Democrat, whose name I shall not call because it was a statement made to a small group—nevertheless, simply by illustration I mention it—said that he had been back to his home area and had visited other areas of the country, and had found not one single soul—that gentleman knows all of us—who did not think that the Senate was misbehaving, who did not think that the Senate ought to send this election back. He did not find anybody, and he said, "I think this is the worst mistake my party has made in many years, and it is going to come back to haunt them."

Now, please do not accuse me of making this up because I would have to then indicate in confidence to some of the people who questioned it just who that was.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

The Senator from Nevada has 22 minutes.

Mr. HUGH SCOTT. I thank the Chair.

Mr. CANNON. Mr. President, I would like to talk just a little bit about this because it seems that our colleagues on the other side of the aisle are bent and determined that we shall not vote on these ballot issues that are before the Senate as a result of the tie votes. So I would like to talk a little bit about those ballots and, at least, let some of the people know, if they are interested, what the situation is.

Mr. MANSFIELD. Mr. President, will the Senator yield before he starts?

Mr. CANNON. Yes, I will yield.

Mr. MANSFIELD. How many days have we been considering Senate Resolution 166?

Mr. CANNON. I think this is the 11th day, I believe, we have been on that.

Mr. MANSFIELD. How many hours has the Senate used in facing up to this resolution?

Mr. CANNON. Well, the staff advises me it is over 50. I have not tried to get a correct analysis so I do not know.

Mr. MANSFIELD. How many live quorum calls has the Senate had during the past 11 days or 10 days?

Mr. CANNON. I believe the figure yesterday was stated to be 16, if I remember correctly. Perhaps one of the staff people can advise whether 16 is correct. Sixteen is correct.

Mr. MANSFIELD. How many votes has the Senate had on this issue apart from the resolution itself?

Mr. CANNON. When the Senator says "on this issue," I would have to qualify that we really have not had a vote on the issue.

Mr. MANSFIELD. Apart from the resolution itself.

Mr. CANNON. We have had 16 votes apart from the resolution itself, and a number of votes——

Mr. MANSFIELD. All right.

Have we voted on the first issue?

Mr. CANNON. No, although some of our Republican colleagues have said that we really have voted on the essence of some of these issues. That may or may not be, but we have not voted on the first issue; we have not voted on the second issue; we have not voted on any of those issues.

Mr. MANSFIELD. How many are there?

Mr. CANNON. Eight issues.

Mr. MANSFIELD. Eight issues?

Mr. CANNON. And 27 ballots. We have not voted on any of those 35 issues. As a matter of fact, 1 of those 8 has 2 parts to it so really I guess you could say there are 36 total issues, and we have not voted on a solitary one.

I may say to the majority leader, I would repeat now, as I told him when we started this matter, that I would be willing to agree to any reasonable time limit from a half-hour on up on any one of the issues so that we could debate it, and so that the Senate could vote and work its will.

The minority side seems to have the impression that everyone over here is going to vote together on these issues. We have never voted together on any of them yet, on any of the issues that have been voted on so far. I do not believe—well, maybe I should not say we have not voted together on any, we may have voted together on one or two, but I would point out that the minority has voted solidly together on every issue that has been up, every issue but one.

Mr. MANSFIELD. Could the distinguished chairman of the Committee on Rules and Administration, the manager of the bill, give the Senate an estimate of how many times he, the assistant majority leader, I and others on this side of the aisle over the past 11 days, including today, have asked consent that a time limitation be agreed to?

Mr. CANNON. I would have to guess, but my belief would be it would be something in excess of 30 times in various forms and on various issues and with various limitations.

Mr. MANSFIELD. I would say that would be a conservative estimate.

Would the Senator say that this side has been unwilling to face up to the issues of the resolution which was reported unanimously 8 to 0 by the Committee on Rules and Administration or would the Senator say we have been trying to expedite progress so that this issue could be settled and New Hampshire be given the second Senator to which it is entitled?

Mr. CANNON. Mr. President, I would respond by saying we, on this side, have certainly been trying to face up to the issue and try to dispose of it, try to dispose of it under reasonable limits.

I may say to my leader that in the committee we even agreed on time limits there, and the same people who agreed on time limits in the committee to vote on some of these issues are now objecting to time limits here on the floor simply because they lost a vote or they did not happen to be on the prevailing side. I should not say they lost. Some of those were 4-to-4 votes, but they happened to not be on the prevailing side.

We got a time limit in the committee and followed that, and it was for a time for presentation of the arguments, and that is the thing I have been hoping we could get to agree to here.

Mr. MANSFIELD. How many days did the Senator spend in committee considering the New Hampshire case?

Mr. CANNON. Well, it seems to me that we have been on it almost every day since the first of the year, but that is not correct. We have had, I think, either 46 sessions of the committee or more than 46 sessions.

Mr. MANSFIELD. How many votes have you had in the committee considering the New Hampshire contest?

Mr. CANNON. Well, we had, I think—we disposed of about 900 issues that are in the box, the ballot box. We disposed of over 600 on votes alone, on ballots alone, both masked and unmasked. And, as the Senator from West Virginia pointed out very ably a few days ago, there is not a

man alive who can tell now who is ahead in this race, whether Mr. Wyman is ahead, as a result of those rulings, or Mr. Durkin is ahead as a result of those rulings, because they are all contained in that ballot box which we hope to bring up here if and when we are ready to vote on these ballots that are before us now, so that once the Senate votes on these issues they can go into the box, and then, after the votes are all had on the ballots, we can have an independent team from GAO or some place else which the Senate determines to tally them, apply those to the base of the ballot law commission, which starts off with Mr. Wyman being two votes ahead.

We know he is more than that ahead based on some of the actions we have taken because he started two votes ahead. The committee, in its wisdom, voted to open and count two absentee ballots at the urging of his lawyer, the opening and counting of which was denied both by the Secretary of State and by the ballot law commission because it did not comply with New Hampshire, and we knew when we opened that they would be ballots for Mr. Wyman, but we still voted to open them and count them.

I stated to Mr. Wyman's lawyer at the time:

> You certainly are not naive enough to believe that this committee does not know how those ballots were cast that you are petitioning us to open,

because, being the good lawyer that he is, he certainly has gone out and checked—he has checked everything he could think of in the State, including the elderly Mr. Michaud, and now contesting the ballot of the lady who died some 8 days after the election, and so it was not reasonable to assume that he did not know that those ballots would be for Mr. Wyman, and they were. We tallied them for Mr. Wyman even though under New Hampshire law neither of them could properly be counted on election night.

There was also another issue which we settled, and we settled that contrary to Mr. Brown's position that he presented to us. That was the ballot that is similar to ballot No. 22. That was ballot No. 36. On ballot 22, Mr. Brown argued that that should be a no-vote, and the committee voted that it was a no-vote by four of the committee, and a ballot for Mr. Durkin by the other four, so it is a tie issue before us.

But on ballot No. 136, precisely the same set of circumstances, that is, a write-in candidate, such as the name of the Senate candidate. In that case, the vote was for Mr. Wyman so the committee voted 6 to 2 to give that to Mr. Wyman.

So that is a vote that obviously he did not have before because Mr. Brown argued to us that that proposition was a no vote.

So we have one here on a tie and one in the ballot box that was given to Mr. Wyman, so three ballots the committee awarded Mr. Wyman that he did not have before and those three, of course, added to the two he went in with would give him five ahead. Assuming the committee followed along on its other rulings with the ballot law commission, that is where he would stand.

Mr. MANSFIELD. May I say to the distinguished Senator, I just wanted to make the record clear to emphasize the fact that the Rules Committee has done its duty and carried out its responsibilities to the best of its ability, and, furthermore, to state that everything which has occurred down here has been on the record for all to see and all to judge.

I commend the distinguished Senator for carrying on as patiently and considerately as he has in trying to bring to the Senate the situation and in trying to get the Senate to face up to its responsibilities so that we can at least begin voting on the first of 30, 35, or 37 issues and other questions which confront us.

We will have to let the record speak for itself.

Mr. CANNON. Mr. President, may I say to my majority leader that the issues that are here to be voted on have been talked about for days and days, except the precise issue on the ballots, and they are not all the same.

The so-called skip-Louie ballots are not even all the same because in that situation we have some ballots there which involve more than one skip, and other evidence, for example, ballot No. 256 had a skip of three people besides Mr. Wyman, but it had other evidence on the ballot. The evidence was that the voter had marked in the X in Mr. Wyman's square and then had taken his pencil and erased the X out of the square.

Now, how in the world anyone can contend that that voter intended his ballot to go for Mr. Wyman is far beyond me, but that is one of the things that Senators ought to see on the ballot up here. They ought to listen to the arguments briefly and then ought to make up their own minds. That is all I am trying to say.

Mr. MANSFIELD. Will the Senator yield further?

Mr. CANNON. Yes.

Mr. MANSFIELD. Did the Senator make some reference to the GAO, or some other agency, during the course of his remarks?

I am just trying to recollect.

Mr. CANNON. Yes. I said that what I hoped was that we could vote on these issues, vote on the ballots one by one after the arguments had been made, have Dr. Riddick take the slips off before we vote on them, the slips from the secretary of state and the ballot law commission, so that no Senator here would know what the action of the ballot law commission or the secretary of state was, let the Senate cast its vote on them and have Dr. Riddick look at that vote, reattach the slips and put that ballot in the big box that we hope to have brought over here that has the 900-odd ballots in it at the present time that both of the parties decided they wanted to protest to the committee out of the 3,500. That is all they elected to present to us.

Then I said I thought we ought to have a team from the GAO go through and tabulate those ballots, the votes that the committee already voted on and the ones the Senate would have voted on, apply those totals by adding or taking from the respective count as identified by the ballot law commission and then report that.

May I say that I have an amendment to the resolution at the desk that I hope to call up, if and when it is appropriate, and I would like to read it to the distinguished majority leader.

Mr. MANSFIELD. I am delighted to hear it.

Mr. CANNON. The amendment would be as follows:

> On page 2, strike out lines 19, 20, and 21 and insert the following:
>
> (6) The Senate hereby directs the Committee on Rules and Administration (A) to tabulate all the ballots which it has previously voted to count and those ballots voted upon by the Senate under section 2 of this resolution, such tabulation being made by three counters from the General Accounting Office in the presence of the committee panel consisting of Mr. Riddick, Mr. Duffy, and Mr. Schoener, (B) to add the ballots so tabulated to, or substract the ballots so tabulated from, the final figures certified for each candidate by the Ballot Law Commission of New Hampshire, and to express the results thereof in a Senate resolution, and (C) to report such resolution to the Senate not later than July 20, 1975. If the committee fails to report such resolution by July 20, 1975, the committee shall be discharged from its further consideration and it shall be placed on the calendar.

In other words, I am trying to find some way to bring a resolution to this.

Mr. GRIFFIN. Will the Senator from Nevada yield?

Mr. CANNON. Yes.

Mr. GRIFFIN. This procedure seems so appropriate there, it would be just exactly what would be helpful and useful, if we would apply that to issue No. 1, there is the protest by Mr. Wyman having to do with the tally of 10 precincts and it would be very simple and very quick to have that kind of a nonpartisan panel just retally those ballots and see whether or not the count was right.

I just wonder if the chairman would not amend his proposal to include that.

Mr. CANNON. Well, I may say to my colleague that he is well aware, and I have repeated it dozens and dozens of times on the floor here, the record is very complete, all of the matters referred to in issue No. 1 were raised by Mr. Wyman's attorneys to the ballot law commission, protested it the night of the recount to the ballot law commission, and he satisfied himself on every issue.

I read the minutes of December 4 before the——

Mr. GRIFFIN. Why does the Senator not give the people of New Hampshire the benefit of the doubt?

Mr. CANNON. December 4, before the ballot law commission, in which Mr. Brown said he had questions about four of those precincts. The others, he was not pressing, because he had satisfied himself on this.

Then on December 20, after he checked the matters on the other four precincts, he came along and said that he was satisfied with those precincts.

This is Mr. Brown, if I may again restate his position, Mr. Brown being the very able lawyer for Mr. Wyman.

First, before I read this, but asking it may come later, I ask for the yeas and nays on the pending Scott amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, Mr. Brown said, speaking to the ballot law commission:

Mr. BROWN. So far as the precinct recount requests—and I had four of them—

Now, these were the 4 remaining of the 10 that are set forth in issue No. 1, after he had satisfied himself on 6 of them:

Chairman SNOW. Gilford, Bedford, Somersworth Ward 1 in Gorham.

Mr. MILLIMET. You didn't mention Somersworth.

Chairman SNOW. I was going to ask you about it.

Now, this is Mr. Brown, the very fine lawyer of Mr. Wyman, and he is a good lawyer, he has made an excellent presentation to the committee throughout:

Mr. BROWN. I am not pressing on any of those, but I may have some live testimony with regard to the Somersworth situation, depending upon how my brother's case develops, and I withdraw the request for the precinct reviews.

Chairman SNOW. Gilford, Bedford, Somersworth Ward 1, and Gorham.

Mr. BROWN. Yes.

Chairman SNOW. Did you get that?

Commissioner RUDMAN. Yes, I did.

Commissioner CROWLEY. I got it.

I do not think anything could be more settled than that issue of the 10 precincts in issue No. 1.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. I would like to ask if it is necessary that the amendments now at the desk, which were there before the cloture vote yesterday, must again be considered as having been read. Is it necessary to have a restatement of that request today to have them qualify under rule XXII?

The PRESIDING OFFICER. It would not be necessary on those amendments, but for any amendments that have come in during the interim it would be necessary.

Mr. CANNON. May I ask if there are amendments that have come in?

The PRESIDING OFFICER. Yes, there are.

AMENDMENTS CONSIDERED AS READ UNDER RULE XXII

Mr. CANNON. Then, Mr. President, I ask unanimous consent that amendments that have come in that are at the desk be considered as having been read for the purpose of rule XXII.

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

Mr. NELSON. Will the Senator yield for one question?

Mr. CANNON. Yes.

Mr. NELSON. A few moments ago the distinguished Senator from Nevada made reference to absentee ballots that were not counted by the ballot law commission, because it would not be in compliance with New Hampshire law.

Mr. CANNON. That is correct.

Mr. NELSON. What was the issue?

Mr. CANNON. The issue on one of them was that the ballot apparently had been returned erroneously to the wrong ward. The election clerk had opened it, but the man was not on the checklist in that ward so they did not count it. She carried it around in her purse for a day or two and then turned it in. We said this was a technical irregularity. On the other, the man was not on the registration list.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NELSON. I ask unanimous consent to proceed for 60 seconds.

The PRESIDING OFFICER. The time for the debate has expired. The clerk will read the motion to invoke cloture.

Mr. NELSON. I ask unanimous consent to continue for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NELSON. Would the chairman of the Committee on Rules respond to this question: What was the vote to count those two ballots?

Mr. CANNON. My recollection was that the vote was 8 to 0 on both of them. The committee felt that they should be counted. We were leaning over backwards to try to keep from disenfranchising a voter. We felt that this was the type of an irregularity that the committee should disregard. We did disregard it and the two ballots went for Mr. Wyman.

Mr. NELSON. But they clearly could not be counted pursuant to New Hampshire laws?

Mr. CANNON. Both the secretary of state and the ballot law commission had so ruled.

Mr. NELSON. So it is correct that a number of the members of the Committee on Rules who were objecting to not counting the "skip-Louie" ballots on the grounds that they did not comply with the law were perfectly willing to count two Wyman ballots even though they, too, were not precisely in compliance with statutory law; is that correct?

Mr. CANNON. The Senator is absolutely correct.

Mr. DOLE. Mr. President, I intend to vote against invoking cloture on this issue. I have in the past, on other matters before this body, voted for limiting debate on occasion, and against limiting debate on occasion.

Knowing that one man's filibuster is another man's "elucidation of the issues," I have always, when voting to limit debate, done so with some regrets that such measures must be resorted to from time to time.

In this instance, however—I am as sure of this as I have been on any issue to come before the Senate in my tenure here—that cloture now would be inappropriate, premature, counter to the best interests of the people of New Hampshire and counter, too, to the best interests of the Senate.

Mr. President, should we invoke cloture now on this matter, we will in effect be saying to ourselves, to the country, and most particularly to the people of New Hampshire that this is an issue which the Senate feels can be limited.

We will be saying that this fundamental issue—which involves an interpretation of the Senate's high constitutional authority to be the judge of its own members, which involves fundamental constitutional rights accorded to the voters of a sovereign State, which involves the fundamental constitutional issue of the rights of States themselves, and which, not incidentally, has taken the Rules Committee of this Senate 5 months after which the Members still could not resolve at least 35 separate and distinct, very complicated issues—we will be saying that the full Senate is willing to ignore the complexities and force a vote.

The Senator from Kansas believes very strongly that we should hasten a decision on this matter. And he believes that the decision we should hasten is that a resolution of this contested election is not properly the Senate's decision to make. But the Senate has already expressed its will, on more than one occasion, not to send this dispute back to the voters of New Hampshire to decide.

The Senate has indicated by previous votes that it intends to go into the issues and to decide those matters which the Rules Committee could not decide on. A decision today to cut short the debate on these matters would not be compatible with our intention to resolve this disputed election ourselves.

The record of the Senate in this matter, to date, is not a proud record. By majority vote, the Senate has refused to honor the certificate of election which the State of New Hampshire has awarded. The Senate has allowed a situation to exist for 6 months in which the State of New Hampshire has been underrepresented in this body. The Senate now contemplates substituting its will for the will of the voters of the State of New Hampshire.

Shall we compound this miscarriage of justice by now voting not only to have the Senate do the job of the people of New Hampshire, not only to have the Senate do that job badly, but also to have the Senate do it with ill-considered haste by limiting debate?

If we do, Mr. President, I can assure you it will not be with my support.

We are discussing not just the plight of the State of New Hampshire. We are not engaged in mere discussion of a political dispute from within that State. Mr. President, the Senate has taken it upon itself to consider a matter which goes to the very foundation of our Federal system and the very essence of the concept of State sovereignty which underlies it.

What we decide in the case of New Hampshire will, by virtue of the precedent we set, be of considerable importance to the State of Kansas, of Maryland, of California, of indeed every State in this Union.

I shall not vote to cut off debate on this issue, not at this time nor at any time in the foreseeable future.

Mr. FANNIN. Mr. President, this morning's Washington Post carries an excellent column by George F. Will regarding the double standard being followed by the Senate majority party

in attempting to overthrow the will of New Hampshire voters.

In his nationally syndicated column headlined, "Stealing a Senate Seat," Mr. Will gives a concise summary of the key points and the inevitable conclusions. If Louis Wyman is denied the Senate seat given him by the voters of New Hampshire, and if John Durkin is seated to add to an already considerable Democratic majority, thoughtful citizens of America can reach no other conclusion than the seat was indeed stolen. For the majority to proceed under the ground rules it has dictated is indeed Watergate morality—a clear abuse of power by the majority.

As Mr. Will points out, for the Senate to decide that a new election is the fair way to settle the dispute would constitute a judgment and the Senate would be fulfilling its obligations under the Constitution. This is the only fair solution.

Mr. President, I ask unanimous consent to have this article printed in the RECORD.

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

STEALING A SENATE SEAT

(By George F. Will)

The Senate Democrats' attempt to steal a New Hampshire seat is a timely reminder that brazen majorities abuse power.

Last November's election produced a 355-vote margin for Republican Louis Wyman. A recount produced a 10-vote lead for Democrat John Durkin. Finally the state's bipartisan Ballot Law Commission examined protested ballots and unanimously declared Wyman a two-vote winner.

Without charging misdeeds, Durkin appealed to the Senate, which referred the matter to the Rules Committee.

In January the Democrats reduced the committee from nine to eight members by reducing Republican membership to three. No other nine-member committee was reduced.

Consider the Democrats' subsequent behavior:

On "skip candidate" ballots the voters marked the circle denoting a party-line vote, and added superfluous marks next to the names of individual party candidates, but skipped senator. In New Hampshire such ballots are always counted as votes for all party candidates, individually marked or not, so Wyman's representatives challenged only one Democratic "skip candidate" ballot, and that inadvertently.

But Durkin challenged 12 such Republican ballots, and the committee split 4–4 (Alabama's James Allen breaking with fellow Democrats) to exclude these ballots from the count.

Chairman Howard Cannon (D-Nev.) ruled that a tie vote on a disputed ballot eliminated the ballot count. This ruling, if upheld by the full Senate, will cost Wyman 12 votes.

The committee refused Wyman permission to protest the Democratic "skip candidate" ballots that he, obedient to state practice, had not protested.

The committee voted 5–3 to count as valid two absentee ballots allegedly cast by a couple who were asked by a Democratic campaign worker to apply for ballots. The man has testified that neither he nor his wife ever received the ballots, and that he is not even registered. The signatures on the applications and ballots do not match.

The committee refused Wyman's request for a complete retally, although the Senate has voted retallies on three occasions. And so it has gone.

The full Senate (Democrats dominating, 61–35) will resolve 35 disputes that produced 4-4 committee votes. But the Democrats have been blindly partisan since January when they broke precedent, refusing to seat Wyman pending the investigation, in spite of the fact that his victory was affirmed by the highest official New Hampshire authority, and he possessed a valid certificate of election.

Republican senators and Wyman note that the number of disputed or missing ballots (some were destroyed before final review) far exceed any possible margin of victory. They want the Senate to declare the seat vacant so New Hampshire can have another election.

Durkin says he, personally, favors another election but, alas, "We are on a constitutional trolley. We can't get off." But he could stop the trolley by telling Senate Democrats that he will not serve unless they let the voters vote.

With his insane trolley metaphor Durkin is suggesting this: Because the Senate has examined New Hampshire's results, the Senate is somehow honor-bound to keep the issue away from New Hampshire voters.

This conclusion follows from nothing. It oozes from a tortured construction of the Constitution's provision that "each house shall be judged of the elections of its members." That is, Democrats who bother to pretend that their attempted larceny reflects reverence for the Constitution say: The Senate will have failed to judge this case if it concludes that a new election is equitable.

This self-serving theory is based on a perverse interpretation of the verb "to judge." The interpretation is that a judgment in favor of a new election is, somehow, no judgment. This theory does not merit confuting, other than by noting that it is novel: The Senate on other occasions has judged that disputed elections should be settled by new elections.

Even with swollen majorities, Democrats have been too undisciplined to produce programs relevant to the nation's problems. But Senate Democrats are a virtually solid brute vote against letting New Hampshire pick New Hampshire's senator.

If "Watergate" now is an all purpose term denoting abuse of power, the Democrats are committing a Watergate in broad daylight, an especially raw abuse because it reflects their cynical assumption that the public is beyond disgust.

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon Senate Resolution 166, relating to the determination of the contested election for a seat in the U.S. Senate from the State of New Hampshire.

Mike Mansfield, Robert C. Byrd, Jennings Randolph, Gaylord Nelson, Abraham Ribicoff, Floyd K. Haskell, John Glenn, Harrison A. Williams, Alan Cranston, Walter D. Huddleston, John O. Pastore, Patrick J. Leahy, Richard (Dick) Stone, Quentin N. Burdick, Claiborne Pell, William D. Hathaway, and Walter F. Mondale.

CALL OF THE ROLL

The PRESIDING OFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 43 Leg.]

Abourezk	Glenn	Morgan
Allen	Goldwater	Moss
Baker	Gravel	Muskie
Bartlett	Griffin	Nelson
Bayh	Hansen	Nunn
Beall	Hart, Gary W.	Packwood
Bellmon	Hart, Philip A.	Pastore
Bentsen	Hartke	Pearson
Biden	Haskell	Pell
Brock	Hathaway	Percy
Brooke	Helms	Proxmire
Buckley	Hollings	Randolph
Bumpers	Hruska	Ribicoff
Burdick	Huddleston	Roth
Byrd, Harry F., Jr.	Humphrey	Schweiker
Byrd, Robert C.	Inouye	Scott, Hugh
Cannon	Jackson	Scott, William L.
Case	Javits	Sparkman
Chiles	Johnston	Stafford
Church	Kennedy	Stennis
Clark	Laxalt	Stevens
Cranston	Leahy	Stevenson
Culver	Long	Stone
Curtis	Magnuson	Symington
Dole	Mansfield	Taft
Domenici	Mathias	Talmadge
Eagleton	McClellan	Thurmond
Eastland	McClure	Tower
Fannin	McGovern	Tunney
Fong	McIntyre	Weicker
Ford	Metcalf	Williams
Garn	Mondale	Young
	Montoya	

Mr. ROBERT C. BYRD. I announce that the Senator from Wyoming (Mr. MCGEE) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

The PRESIDING OFFICER (Mr. CLARK). A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the resolution (S. Res. 166), relating to the determination of the contested election for a seat in the U.S. Senate from the State of New Hampshire, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Wyoming (Mr. MCGEE) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

The yeas and nays resulted—yeas 56, nays 41, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—56

Abourezk	Hart, Gary W.	Mondale
Bayh	Hart, Philip A.	Montoya
Bentsen	Hartke	Morgan
Biden	Haskell	Moss
Bumpers	Hathaway	Muskie
Burdick	Hollings	Nelson
Byrd, Harry F., Jr.	Huddleston	Nunn
Byrd, Robert C.	Humphrey	Pastore
Cannon	Inouye	Pell
Chiles	Jackson	Proxmire
Church	Johnston	Randolph
Clark	Kennedy	Ribicoff
Cranston	Leahy	Sparkman
Culver	Long	Stevenson
Eagleton	Magnuson	Stone
Ford	Mansfield	Symington
Glenn	McGovern	Talmadge
Gravel	McIntyre	Tunney
	Metcalf	Williams

NAYS—41

Allen	Fong	Percy
Baker	Garn	Roth
Bartlett	Goldwater	Schweiker
Beall	Griffin	Scott, Hugh
Bellmon	Hansen	Scott, William L.
Brock	Helms	Stafford
Brooke	Hruska	Stennis
Buckley	Javits	Stevens
Case	Laxalt	Taft
Curtis	Mathias	Thurmond
Dole	McClellan	Tower
Domenici	McClure	Weicker
Eastland	Packwood	Young
Fannin	Pearson	

NOT VOTING—2

McGee Hatfield

The PRESIDING OFFICER. On this vote, there are 56 yeas, 41 nays. Three-fifths of those duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. WEICKER. Mr. President, I hope that now we will take a positive way out of this dilemma; that the Senate will see fit to handle this matter in an impartial way, in a neutral way, in a nonpartisan way.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. Senators will please take their seats. The Senate will please be in order. The Senate is not in order.

Mr. WEICKER. I hope that we will send the election back to New Hampshire, let the people of New Hampshire decide; that we will support the amendment of the distinguished minority leader, the Senator from Pennsylvania.

I see no point in hassling each other any more. We are doing too much of it as it is. I hope not much time will expire before we get to the matter of voting.

Mr. NELSON. Mr. President, may we have order? There are still Members of the Senate conversing in the aisle.

The PRESIDING OFFICER. The Senator is correct.

Will Senators please take their seats?

Mr. WEICKER. Mr. President, I yield to the distinguished Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, if I may, I yield to the distinguished Senator from Virginia, without losing my right to the floor.

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

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator yielding to me.

My only purpose in taking the floor at the time is to read an editorial from the Richmond Times-Dispatch. This is our leading newspaper in Virginia. It is generally regarded as a Democratic newspaper, although it is often thought of as a conservative paper. This is the lead editorial of yesterday, Tuesday, June 24, and it is entitled, "Let the Voters Decide." It is a very well-thought-out editorial on the problem that is now before the Senate, and I shall read it in its entirety:

LET THE VOTERS DECIDE

The U.S. Senate has certainly not distinguished itself in its handling of the disputed New Hampshire senatorial election.

For half a year members of "the world's most exclusive club" have haggled over admission of a new member to represent New Hampshire. Meanwhile, the state has had only one of the two senators it is constitutionally entitled to.

The issue came to the Senate because the New Hampshire returns last November were the closest of any senatorial election in the nation's history.

The first announced results after the initial counting of ballots gave Republican candidate Louis C. Wyman the victory by a slim 355-vote margin. Then a recount took the apparent victory away from Wyman and gave it to Democrat John A. Durkin by 10 votes. Next, the State Ballot Law Commission reviewed disputed ballots and certified Wyman the winner by two votes.

Democrat Durkin took his fight to the Senate, which is topheavy with Democrats, with 61 of them in the upper chamber as against 38 Republicans. But instead of settling the issue, the senators have spent nearly six months arguing over contested ballots and other issues.

Many Americans probably are wondering why there is such a big fight over one senatorial seat, when the outcome would have little effect on the overall Democrat-Republican division in the Senate. The explanation is that the makeup of committees is in proportion to the party makeup of the Senate itself. If the Democratic candidate is declared the winner, for example, it could mean that a Republican might have to be ousted from one or more important committees to make room for another Democrat.

There is no question but that the Senate has a constitutional right to deal with the contested election. The Constitution provides that "each House shall be the judge of the elections, returns and qualifications of its own members . . ."

But the question is not whether the Senate has legal authority to choose between the two contenders, but, rather, whether it is acting in the public interest in handling the problem in the manner of the past six months.

With one candidate and then the other having been declared the winner before the issue reached the Senate, and with the certified results being fantastically close, the common sense solution to the problem would be for the Senate to call for a new election between Messrs. Wyman and Durkin. Polls show that this is what the people of New Hampshire want, and in all probability the vast majority of the people of the nation as a whole would agree. But the Senate gives no sign of adopting this reasonable, sensible solution. The outlook is for continued political squabbling, while New Hampshire remains with half its deserved representation in the Senate.

If the Senate is determined to make the choice between Democrat Durkin and Republican Wyman, great weight should be given to the fact that the properly constituted state authority for such matters certified the latter as the winner. But the common sense solution, we reiterate, would be to turn the whole question back to the people most directly affected—the voters of the state of New Hampshire.

Mr. President, I think this is a very sensible, reasonably stated editorial on the matter that is before us. If we follow the wishes of the people of New Hampshire, Senator WYMAN will be seated as the Senator from New Hampshire. But it is close. I think the second best thing, and the sensible approach, is to send this back to have another vote, to let the people of New Hampshire decide finally, once and for all, whom they want to represent them for the remainder of this 6-year term.

I thank the Senator from Pennsylvania for yielding.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Pennsylvania yield briefly?

Mr. HUGH SCOTT. In just 1 minute. We do not intend to delay the Senate. I yield and then I have something briefly to say.

Mr. ROBERT C. BYRD. Mr. President, I should like to acknowledge that the Richmond Times-Dispatch is a very reputable and time-honored newspaper. I should like to have follow in the CONGRESSIONAL RECORD the editorial by the Richmond Times-Dispatch that has been read into the RECORD by the distinguished junior Senator from Virginia (Mr. WILLIAM L. SCOTT) just 16 words from a document that is even more time-honored and certainly more basic to our Republic. They are these words which are to be found in section 5, article I of the Constitution:

Each house shall be the judge of the elections, returns, and qualifications of its own members.

As far as I am concerned, that takes care of the editorial. There was one thing in that editorial, however, that I shall comment on briefly which is indicative of the many false assumptions that are being made regarding the New Hampshire election dispute by various editorial writers and commentators. I have read a good many columns and editorials bearing upon this issue. I find that in many instances, the writers of those editorials and columns are proceeding on the basis of assumptions that are not necessarily valid.

There was a reference in the editorial to the possible removal of minority members from committees in the event the Senate were to seat Mr. Durkin. In the first place, the Senate may, in the final analysis, seat Mr. Wyman. No individual on the Committee on Rules, in the Senate or elsewhere, knows what the result of the counting of the ballots will ultimately be. It could very well be Mr. Wyman who will be seated, in which case no Republican would be bumped. Certainly, if it were to be Mr. Durkin, I know of no inclination on this side of the aisle to bump any Republican member off any committee as a result of the outcome of that election. So, that is one false assumption in that editorial that I hope will not be persuasive of votes in the Senate. I am sure that every effort would be made in any event to assure that Republican committee assignments would not be affected during the remainder of this Congress. What I really rose for was to inquire of the distinguished Republican leader if it might be possible to get a time limitation on this amendment, so that the Senators will know when the vote will occur.

Mr. HUGH SCOTT. I think we could. I do not believe the Senator from Connecticut has any desire to talk. I think we can probably vote in 10 minutes if there is no objection, if I could have 5 of that. We could vote at 12:45.

Mr. WEICKER. Reserving the right to object, I do not think unanimous consent has been requested, but I wish to state that I shall follow by position in this matter, which is that I will not agree

to any time limitation. I am prepared to vote right now.

Mr. HUGH SCOTT. I am not opposed to a time limitation, but I believe we can yield our time in just a very few minutes.

Mr. President, the most specious argument we have heard here is the one that appears to rely on the constitutional provision that the Senate shall be the judge of the election of its Members. No one questions that is as it is stated. But it is specious to argue from that, and it is self-serving to argue that their perverse interpretation of the verb "to judge" implies that the Senate makes no judgment in referring the case back to New Hampshire. The decision to refer back is a judgment. The decision to refer back is a judgment that it cannot pass yet on the qualifications of a Member from New Hampshire, because the decision in New Hampshire is too confusing for the Senate to arrive at that conclusion.

Moreover, a statement has just been made by the Senator from West Virginia, "We do not know who is ahead."

I think the Senator from West Virginia had better assume that we on this side know who will be ahead if they do the counting. The fact that they want to do the counting is sufficient warning.

Mr. ROBERT C. BYRD. Will the Senator yield on that point?

Mr. HUGH SCOTT. Yes.

Mr. ROBERT C. BYRD. I hope that the Senator will not make that implication. He sat on the Committee on Rules with the rest of us and he knows that we did everything we possibly could to be fair and objective in the actions there. I should want to assume that every Senator in this body is going to try to be fair and objective and honest in his votes in relation to this issue.

Mr. HUGH SCOTT. My reference is simply to the fact that if the majority does the counting, the majority is going to decide 34 out of these 35 issues in a way that will favor the candidate the majority wanted. That is my prediction. I think it is a justified one. I am not sure they are willing to take away from us the vote of the lady who died. I think that is a little too raw. But they have the majority to take the others away.

Mr. ROBERT C. BYRD. The Senator will remember that we did not take away from Mr. Wyman the vote of the lady who carried the ballot home in her purse.

Mr. HUGH SCOTT. Carrying a ballot in a purse is a good deal different from dying.

Mr. LONG. Will the Senator yield?

Mr. CURTIS. Will the Senator yield.

Mr. HUGH SCOTT. I yield to the Senator from Louisiana; then to the Senator from Nebraska.

Mr. LONG. What troubles me most about this matter has to do with the matter of the "skip" ballots. If the committee is not going to permit to be counted those ballots on which Mr. Wyman or Mr. Durkin's name was skipped, although the person marked the X in the bull's-eye for the straight party ticket, then I should think that, at a minimum, we ought to go back, if either party wants it and take out all the other ballots of that sort, if any are to be found in the whole 180,000. That would sound to me as though we were looking for one ballot in about every 300 and take out those ballots and not count them, either. It may well be that all of the so-called skip ballots are not in the contested group.

Am I correct in my understanding that Mr. Wyman contends that if we go into that 180,000 ballots, we are going to find other ballots there where names were skipped over, particularly the ones where the two senatorial candidates were skipped?

Mr. HUGH SCOTT. The Senator is correct. Mr. Wyman contends, and supports it by affidavits of the former Governor of New Hampshire, Mr. Gregg, that there are many more such ballots in toto. The Committee on Rules did not do what we urged them to do. It at first agreed to do it by a 5-to-3 vote on a motion, and then refused to give the effect of their motion to go back and count them by a motion to reconsider, which was tied. So what we get here is a tie vote and not the 5-to-3 vote.

Mr. LONG. Well, as far as I am concerned, I have voted for cloture in order that the committee can count the ballots and bring its recommendation in here. I do not believe I would be able to vote for cloture if, after the committee has gone back and sought to count these ballots, it then appeared that, in spite of such affidavits of people who say that there are other "skip" ballots in that 180,000,—the committee or the Senate were to refuse to look at those other ballots. Then I do not think I could vote for cloture or to bring this thing to a conclusion, because, in my judgment, it would be totally inexcusable. I do not think that any conscience can defend a situation where we would say that we would throw out ballots that, according to the law and practice of that State, would have been counted with regard to 3,500 ballots, and decline to do it with regard to the 180,000 other ballots.

Mr. HUGH SCOTT. If the Senator would be good enough to keep the debate open long enough for us to try to persuade a majority of Senators to agree to that, I would be delighted.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HUGH SCOTT. Because this has been turned down by the committee, turned down on the floor. The majority thus far has been unwilling to go out and retrieve those ballots. They only want to count the ballots that they grabbed hold of, namely, the one dozen.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. HUGH SCOTT. Yes.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator from Louisiana that this is an issue we would hope to get to if we could invoke cloture, and the Senate could speak its will on this. But here we have——

Mr. HUGH SCOTT. At 102 seconds a Senator.

Mr. ROBERT C. BYRD. Not necessarily. I have heard that said, too, may I say, by the distinguished minority leader a number of times, but I would hope he will yield and let me address myself to that.

If cloture were invoked, there would certainly be an inclination on this side, as there has been all along, to work out a time agreement which would then have the purpose of allowing every Senator more time.

Mr. HUGH SCOTT. Well, the Senators need, even if you have invoked cloture, 1 hour on any issue they want to discuss, not the 102 seconds. If you want to discuss 35 issues at 1.7 minutes per issue, that is what you are doing when you try to shut off debate. This is going to rise to haunt people later.

Mr. ROBERT C. BYRD. I suppose what I said escaped the distinguished minority leader. What I am saying is if cloture were invoked it would still be possible to work out a time agreement in lieu of that, of the time that operates under the rules, which would allow Senators to have more than the 102 seconds.

Mr. HUGH SCOTT. My answer is the Senate has been given its opportunity. It has refused to take it. The Senator from Louisiana is quite right. The Senate ought to take it. The Senate is only looking at a favored dozen ballots. The Senate is unwilling to look at the others. The others are there and, if the affidavits are right, if Mr. Wyman is right, there are literally hundreds of such ballots, so the evidence asserts. The Senate up to now has refused to look because it prefers to blind itself to that issue, not to find what is there.

Mr. NUNN. Mr. President, will the Senator yield for just a brief comment and question?

Mr. HUGH SCOTT. I am glad to yield.

Mr. NUNN. I am very impressed by what the Senator from Louisiana has had to say here on that particular issue.

The Senator from Georgia has not made a final determination on how he will vote on the so-called skip-Louie ballots, and I think the Senator from Louisiana made a very strong point that if you are going to throw out or continue one set of "skip-ballots" it would seem fair to me that you would do the same thing to both even if it requires going back and looking at other ballots.

But I understood that the Senator from Alabama had an amendment that went to that very point that we have not voted on yet. Am I under a misimpression in that regard?

Mr. HUGH SCOTT. The amendment of the Senator from Alabama is to simply go in and find 12 such ballots and count them. My amendment was to do as the Senator from Louisiana said, to go in and retrieve the ballots. I will be glad to offer it again if we can get that kind of a vote on it, but I do not think the Senator should be lured into thinking that we are going to get a vote on it after cloture, should that happen, because then we will be confronted by pretty solid ranks.

Mr. NUNN. Would the Senator from Pennsylvania explain the difference between his amendment and the amendment of the Senator from Alabama?

Mr. HUGH SCOTT. Yes. My amendment is not presently pending because I have withdrawn it in order that the

Weicker amendment can be voted on, but I have an amendment which I offered in the Rules Committee which was tied, and that is that the Rules Committee go back to the ballots, not even to New Hampshire, they are in the basement right here, go back to the basement, open up the ballot boxes and see if those people who signed the affidavits, including the former governor, are right; pick out any "skip-candidate" ballots, whether they affect Mr. Durkin or Mr. Wyman, bring them back and ask the committee to tabulate them, presumably using the same standards they have been using before.

Mr. NUNN. In other words, either throw them all out or count all of them.

Mr. HUGH SCOTT. Throw them all out or count them or set up a standard by which they can count all the ballots.

Mr. NUNN. Is not the final result the same, but just going about it in a different direction, for, it seems to me, the Senator from Alabama, in going out and retrieving 12 and saying, "We are going to have the same number of 'skip-Durkin' as 'skip-Wyman' ballots," the net result would be the same thing because, presumably, all of those which are not pulled out, all of those ballots not pulled out, under the amendment of the Senator from Alabama would be counted, because they would still be in the total; am I incorrect in that?

Mr. HUGH SCOTT. No. All those ballots now have been counted in New Hampshire in a certain way as straight tickets. If you pull them out and apply the standard which some of the members of the committee wanted to apply you have to reverse the decision on all of these ballots you pull out. Instead of finding them to be straight-ticket ballots, as New Hampshire did, you would get these hundreds of ballots—let us say you got 100 "skip-Durkin" ballots and 100 "skip-Wyman" ballots. You would have to determine exactly the opposite since that is what is being sought here. You would have to reverse your situation and decide that these are not straight-ticket votes, but the so-called straight-ticket votes for Durkin belong to Wyman and the so-called straight tickets for Wyman belong to Durkin.

Mr. NUNN. The final result of what the Senator from Pennsylvania is seeking, as I understand it, is whatever the Senate does with the "skip-Durkin" ballot it does the same thing with the "skip-Wyman" ballot; is that correct?

Mr. HUGH SCOTT. That is right. The difference between the proposal of the Senator from Alabama and my proposal is that he proposes to do what he believes will work, a simple rule of fairness, to match 12 ballots with 12 ballots. But to comply with the protests of Mr. Wyman and the affidavits of his supporters, they say that if you are going to pick out 12 "and catch us pretty much by surprise with the 12 you ought to go back, in fairness, and pick them all out, and we do not know what the result is."

I believe them. I do not believe either side knows. We think instead of just matching 12 to 12, we have some people on this side of the aisle who argue on that if you do that a fraud has already been committed in taking these 12 ballots away from Mr. Wyman, so why do you try to equalize the fraud by taking 12 ballots away from Mr. Durkin. In other words, you do not do justice then. They feel you do injustice.

There is another argument by which you can justify the Allen amendment, and I lean toward the other argument, but I have to cite both.

I yield to the Senator from Louisiana.

Mr. LONG. The way it seems to me is that the law of New Hampshire, the court decisions, and the established practice by which people have been counting votes up there for 50 years are that you would count those "skip" ballots where one had put an X in the circle for the nominees of that party.

Mr. HUGH SCOTT. That is absolutely correct.

Mr. LONG. If the committee does not want to count those ballots that way, according to the law, according to the court decisions and according to the established way that those people have been doing business up there for 50 years, the committee can decide if it wants to not count those ballots that way. But if it does not want to do so it ought to be consistent and it ought to say, "All right, we are going to look through the whole 180,000," and pull out every "skip" ballot in there, which might be about 1 in 300, based on a sample of 3,500 contested ballots of which 13 are "skip" ballots.

If that is to be the case at least one could say, if he wants, that when one marks a so-called skip ballot it is not clear who the person wanted to vote for and, therefore, the ballot should be thrown out, at least one could then say he was being consistent. But how could a Senator contend he is doing justice if it looks at 3,500 contested ballots and proceeds to adopt a rule of counting which is contrary to the established way the people up there count those ballots, and count 3,500 in that fashion and then refuse to look at the other 180,000 ballots?

To do that would leave the Senate wide open to the charge that it was partisan, that it was unfair, that it was stealing an election.

Now, for all you know the evidence might be right there in the 180,000 ballots to prove Mr. Wyman won the election hands down, for all you know. So how can you justify not looking at them?

Now, one can say that adequate security has not been maintained over those ballots.

Well, Mr. President, if someone were trying to steal an election he would have to be the most sophisticated vote-stealer in history to know that the way to steal for the Republican would be to mark the ballot for the Democratic column and leave Mr. Durkin's name blank, where the practice of the people of that State, the court decisions and the practice in that State would have required to count the vote for Mr. Wyman. It is not very likely that any vote-stealer would manage to get his hands on those ballots and put them in to steal the election for Mr. Wyman which under the law would be counted for Mr. Durkin. It is not very likely.

Mr. HUGH SCOTT. I would say to the Senator that I agree with him and I agree with his objective.

No matter what assurances the Senator gets, that objective is not going to be achieved unless we keep the debate open. If cloture is voted, it gets washed down the drain with all the rest of the laundry.

Mr. NUNN. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. HUGH SCOTT. But if we do not permit the cloture to take effect, then we are open to a discussion on this point and I will gladly entertain such.

Mr. NUNN. Will the Senator yield for a question?

Mr. HUGH SCOTT. I yield to the Senator from Georgia.

Mr. NUNN. The Senator from Louisiana and the Senator from Pennsylvania, I think, are making a logical point here. I have not made a final decision on this, but what I am curious about is why we do not go ahead and get to this point and vote on it.

Mr. ROBERT C. BYRD. That is the question.

Mr. NUNN. Somebody is presuming the Senator from Georgia will vote for the Democrat no matter what the position is. I resent that presumption. I intend to vote my conscience and I believe most people on this side of the aisle will, just like most people on that side of the aisle.

So why not get to the heart of it and start voting on it. I believe there is too much presumption of bad faith around in this Chamber on both sides of the aisle.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

The distinguished Senator from Georgia has made my speech.

Mr. LONG. Will the Senator yield to me?

Mr. HUGH SCOTT. Yes.

Mr. LONG. Let me make it clear that my position with the leadership on this side of the aisle has been and continues to be that I will vote for cloture to give the committee a chance to bring this matter in here, but if the committee comes in here proposing to throw out those dozen skipped ballots and declines to look at the other 180,000, I will never vote for cloture.

In other words, I am willing to send it back to the committee and vote on the issues, but when they come back with it, if it comes out with the inconsistency of having declined to look at the other ballots, looking only at the skipped ballots presently here, but not the other 180,000, then I do not think I will vote for cloture.

I think I have indicated I would not think that to be fair, that it might well be that there might be 50 or 100 ballots in there with Mr. Durkin's name skipped over, for all I would know.

Mr. HUGH SCOTT. Let me read my amendment and see if the Senator and I are not saying the same thing and the Senator from West Virginia says we can have a vote on it.

Now, if we get a vote on this amendment and the Senator from Louisiana is denied what he seeks, then I would hope he would give us a chance for further discussion rather than cloture, because I in good faith will offer the amendment and the Senator from West Virginia is willing to have it come up.

We are going to see, I am pretty sure, that those Senators who opposed this in the Rules Committee will oppose it here, they will vote down my amendment, they will proceed to do what the Senator from Louisiana wants.

Mr. NUNN. The Senator from Pennsylvania is assuming everybody on this side of the aisle will agree with the Senator on the Rules Committee. I think that is a questionable assumption.

Mr. HUGH SCOTT. The Senator from Georgia is right and I withdraw it. Let us say I have this fear because of the way the votes have been going, but I am willing to try it and I hope we can see a different result.

My amendment would do this, it would instruct—

the staff of the Committee on Rules and Administration, accompanied by a representative of each contestant, shall retrieve from the ballots in the custody of the United States Senate any and all of the so-called "skip candidate" ballots and shall present them to the committee for its review and ruling.

Is that what the Senator is trying to get at?

Mr. LONG. Yes, I think that is fair.

Now, may I make a proposition?

Mr. HUGH SCOTT. Yes.

Mr. LONG. Assuming we can get the Senate to vote for this amendment, will the Senator then be willing to bring this matter to a close, at least insofar as letting the Senate vote on the other issues?

Mr. HUGH SCOTT. We will certainly give that the utmost consideration and try to achieve it.

I do not want to be misunderstood; we will try to achieve it, but I first want to find out before we do anything else whether this is going to pass.

Mr. LONG. Let me say frankly, I discussed this matter with my colleague, and I hope he will forgive me for saying this, but suggesting we do exactly what the Senator is talking about, and my understanding is that he has made that suggestion to Senators associated with the Democratic leadership and that that has been turned down on this side of the aisle.

So far, we have both sides turning it down. But, to me, that is the only direction that makes any sense if we want to resolve this thing, that if we are going to eliminate those skip-ballots, and I am the only Democrat who voted this the last time we voted, but if we are not going to count those, we should not count for either man, and should not just do that when we know we are favoring Mr. Durkin by a 12–1 margin, but treat both the same, take out any such ballot in the 180,000 and treat them the same, by a uniform rule, whatever the rule may be.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. HUGH SCOTT. Well, that may open some other negotiations, if we get to that.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. HUGH SCOTT. Yes.

Mr. ROBERT C. BYRD. Mr. President, I do not know what the distinguished Senator from Louisiana has reference to when he says that some matter was brought to the attention of the leadership on this side of the aisle and rejected. I do not know what he is talking about, but I am sure he is probably laboring under a misunderstanding because I do not know of it.

But I say to the distinguished Senator from Louisiana that if the other side would allow us to get on with the votes on the issues in the resolution, we would get to the very issues that the distinguished Senator from Louisiana is talking about.

We ought to be voting on those issues because eventually we have to vote on those issues, up or down, before we can dispose of this resolution and all of this flag waving and window dressing and shoveling of smoke about offering amendments and getting votes on them and getting the position of the Senate, one way or the other, is just pure hogwash and nothing else.

Mr. PACKWOOD. Will the Senator yield?

Mr. ROBERT C. BYRD. Here are the issues in the resolution, now let us vote on the issues.

Issue No. 6 and issue No. 7 (a) and (b) are on the very objection that troubles the Senator from Louisiana, and I can see his viewpoint and I respect him for his viewpoint, and it may very well be that the distinguished minority leader is assuming a little too much.

Mr. HUGH SCOTT. It may well be. I have discovered that.

Mr. ROBERT C. BYRD. When he assumes the members of the Rules Committee, once we get down to vote on the issues, will vote against the provisions.

Mr. PACKWOOD. Will the Senator yield?

Mr. ROBERT C. BYRD. So I say, let us vote on the issues.

Mr. LONG. Will the Senator yield at that point?

Mr. HUGH SCOTT. Yes, I yield to the Senator from Oregon.

Mr. LONG. May I say that if the situation were just exactly the other way around, if this were a contest where the Democrats had 38 votes and the Republicans had 61 votes over there, I would be just as much afraid that if permitted to invoke cloture the other side would run over my people roughshod, as the Republicans are at this moment.

That is why, as far as this Senator is concerned, I would just like to see us move toward assuring one another we will do what is fair and try to be consistent in doing it and proceed on some basis where we have a certain amount of mutual respect.

I just think what is being suggested by the Senator from Pennsylvania is absolutely right. But I think if we agree to that, his side ought to be willing to move a peg and say, "All right, if the other side is willing to treat us fairly in this respect, then we will let the Senate vote on the other matters, however the Senate wants to vote on them, reserving our rights," which of course, would give the other side the right to wage unlimited debate if it wanted to, if they are not happy about the way it goes thereafter. But at least they should be willing to move forward on this resolution.

Mr. HUGH SCOTT. I yield to the Senator from Oregon.

Mr. PACKWOOD. I want to ask the Senator from Louisiana to be sure I understand the parliamentary situation. The Senator from Louisiana says he is not going to vote for cloture if we are not going to go back and examine——

Mr. ROBERT C. BYRD. I did not understand that. I understood the Senator from Louisiana to say that once this is sent back, if the committee does not do thus and so, then he would not vote for cloture again because this would have to come back and be put on the calendar. The only way we could ever get to it again and resolve it would be probably by a cloture vote. The Senator is saying he would not vote for cloture then. There may be others who would not at that time.

Mr. PACKWOOD. If we vote cloture first on the issue we are now on, is the Senator from Louisiana going to be precluded henceforth? It does not matter then how the matter comes out in the "skip ballots."

Mr. LONG. Let me state my position again. My position has been that I am willing to vote cloture to get to a vote on these various matters in this Senate resolution, no matter how the Senate votes on that. That puts it back in the Rules Committee.

Mr. PACKWOOD. Right.

Mr. LONG. When it comes back from the Rules Committee, if the committee has insisted on throwing out those skip ballots among the 3,500 contested ballots which would tend to put Mr. Durkin over Mr. Wyman, if they do that and refuse to look at the other 180,000 ballots where we are led to believe there may be a lot of other skip ballots, then, as far as I am concerned, that type of inconsistency I could not countenance. I would then be forced to vote against cloture on a motion to seat Mr. Durkin if that was how it was to be arrived at, by throwing out 12 Wyman votes and declining to look to see whether there might be an even greater number of votes where one had skipped over the other man's name.

Mr. MANSFIELD. Will the Senator yield?

Mr. HUGH SCOTT. Yes.

Mr. MANSFIELD. Is it not true that the resolution now before the Senate was reported by the Rules Committee unanimously by a vote of 8 to 0?

Mr. HUGH SCOTT. I believe the committee agreed to report, in effect, that it had disagreed and agreed to submit two propositions. So our report was simply sent to the floor of the Senate and we were in strong disagreement on at least 35 issues. We could not file a majority committee report.

Mr. GRIFFIN. Will the minority leader allow me to add that a number of Sena-

tors, including the junior Senator from Michigan and the Senator from Pennsylvania, reserved their rights on the floor.

Mr. MANSFIELD. But it was reported 8 to 0.

Mr. HUGH SCOTT. Yes.

Mr. MANSFIELD. In other words, unanimously. I assume on that basis the inference was that the Senate would have the chance to face up to the 25, 35, or 37 issues which the Rules Committee could not agree on. Is that correct?

Mr. HUGH SCOTT. Including a motion in the Rules Committee to send it back to New Hampshire, yes.

Mr. MANSFIELD. Yes. And we voted, I believe, on that particular motion two or three times already in some form or other.

Mr. CANNON. Four times.

Mr. MANSFIELD. Four times. So why can we not start 1, 2, 3, 4, 5, 36, 37, 38, 39, and bring this matter to a head as the Rules Committee decreed when it reported out the resolution that is now pending?

Mr. CANNON. Will the Senator yield?

Mr. HUGH SCOTT. I yield.

Mr. CANNON. May I point out, partly in response to the Senator from Louisiana, that what we are trying to do is to get to vote on these issues. These are tie vote issues that are here. That is why they came here. It is what the Senate has to decide. These so-called "skip-Louies" are ones that the Senators themselves will have to decide and they are not all in the same catgeory. There are single skips; there are more skips; there are more than one; there are ballots on which there is other evidence on the ballot, other than a skip. These are the tie votes that the Senate is going to have to try to decide.

If the Senate makes a decision on those points, then it should make the further decision as to what it should do. It may well decide that the skip ballots results should be completely different than what is being assumed on the minority side.

Mr. HANSEN. Will the distinguished floor manager of the bill yield on that point?

Mr. CANNON. I do not have the floor. The Senator from Pennsylvania yielded to me.

Mr. HUGH SCOTT. I am trying to get to a vote, but I will yield.

Mr. HANSEN. I thank my distinguished colleague from Pennsylvania. Probably the editorial in this morning's Washington Post has already been printed in the RECORD. It was written by George F. Will.

Mr. CANNON. Twice, I think.

Mr. HANSEN. I will not ask for its reinsertion.

Mr. MANSFIELD. What was the title of that commentary? It was not an editorial.

Mr. HANSEN. I thank the Senator. I am glad he asked. The editorial is titled "Stealing a Senate Seat."

On the point made about the "skip Louie" votes, I think this ought to be noted, and I take this occasion to read another part that was called——

Mr. CANNON. It was all read into the RECORD and printed in the RECORD.

Mr. HANSEN. I think it might bear hearing again. It seems to me we have heard the Constitution read by the distinguished majority whip.

Mr. ROBERT C. BYRD. I hope Mr. Will will read the Constitution also.

Mr. HANSEN. I suspect he has.

Mr. ROBERT C. BYRD. It is not reflected in his column.

Mr. HANSEN. Of course, that is a matter of the Senator's interpretation. I am not a lawyer. I would have to believe that maybe a majority of Americans perhaps feel that Mr. Will is quite well aware of what the Constitution says.

Let me say that with reference to that column written by a man for whom I have the highest respect, I quote from the column:

> Chairman Howard Cannon (D-Nev.) ruled that a tie vote on a disputed ballot eliminated the ballot count. This ruling, if upheld by the full Senate, will cost Wyman 12 votes.
>
> The committee refused Wyman permission to protest the Democratic "skip candidate" ballots that he, obedient to state practice, had not protested.
>
> The committee voted 5-3 to count as valid two absentee ballots allegedly cast by a couple who were asked by a Democratic campaign worker to apply for ballots. The man has testified that neither he nor his wife ever received the ballots, and that he is not even registered. The signatures on the applications and ballots do not match.
>
> The committee refused Wyman's request for a complete retally, although the Senate has voted retallies on three occasions. And so it has gone.
>
> The full Senate (Democrats dominating, 61-38) will resolve 35 disputes that produced 4-4 committee votes. But the Democrats have been blindly partisan since January when they broke precedent, refusing to seat Wyman pending the investigation, in spite of the fact that his victory was affirmed by the highest official New Hampshire authority, and he possessed a valid certificate of election.

Mr. President, the point I want to make is simply this: None of us can say with assurance, with confidence, that we are right, with finality, how anyone is going to vote over here. I join with most of my colleagues in asserting my great confidence in the fairness, the basic decency and the integrity of all Members of the Senate. But it does seem to me that the point that was being made by the senior Senator from Louisiana deserves our very close attention.

He is saying, as I understand his presentation today, that if we are going to look at the thing objectively, then we ought not to be bound by an earlier decision made to exclude only those "skip Wyman" votes.

What we will do, I have no idea of knowing. I think the Republican dilemma can be summarized in this fashion: We are fearful, knowing our own caprice and I am fully aware of mine to be partisan. I think if the situation were reversed there would be very strong pressures indeed put upon Republicans to see that the person who was finally seated was a Republican. So in saying that, I can understand the concern that may be shared by others. I do not impugn the integrity of anyone on the other side at all. I simply call attention to what I think is the basic fairness of the statement made by the distinguished Senator from Louisiana, and to point out that the difficulty in trying to agree, as the distinguished majority whip has repeatedly solicited us to do, is starting down the road to a point of no return.

If we agree to a time limitation, if we agree to vote on a final issue, then, if there should be some political partisanship displayed—and I do not make that charge, but if it should develop that way—we on this side know full well that the time will come, the 102 seconds, the 1 minute and seventh-tenths per issue that has been referred to repeatedly by the distinguished minority leader will have run out, and we will have no alternative.

I am persuaded to take what to many might think to be an untenable position in opposing cloture because I believe this: that not only in the State of New Hampshire, but in every other State in the United States, all 50 of them, the overwhelming judgment of all the people of America is that the people in the State of New Hampshire ought to be able to say who is going to represent them in the Senate of the United States; and, reluctantly, I conclude that the only way I can do the best job I am capable of doing to achieve that end is to say I shall agree to no time limitation on a resolution of all of the issues.

I thank my colleagues.

Mr. WEICKER. Mr. President, will the Senator from Pennsylvania yield?

Mr. HUGH SCOTT. Mr. President, having no time limitation in mind, I am, however, now ready to vote.

The Senator from West Virginia asked me to yield to him first.

Mr. ROBERT C. BYRD. Mr. President, I shall be very brief, and I thank the distinguished Republican leader for yielding.

I simply wish to say again that, as we have tried diligently and repeatedly to secure a time limitation which will assure all Senators of ample time to discuss the various issues, I will certainly be glad to renew my efforts in that regard, so that Senators will not be limited to 110 seconds or whatever the number of seconds may compute out to be.

Even in the event that cloture were invoked, I would be happy to try to get an agreement that if cloture is invoked, it would be vitiated in favor of a time limitation that would assure all Senators of ample opportunity for debate.

Mr. HUGH SCOTT. I understand, and I thank the Senator.

I yield to the Senator from Connecticut.

Mr. WEICKER. I thank the distinguished Senator from Pennsylvania.

Mr. President, just before voting on the question of sending the matter back to New Hampshire, I think my colleagues might be interested in the matter which follows:

About 3 weeks ago, Representative JAMES C. CLEVELAND, of the Second District of New Hampshire, sent out to every one of his constituents in New Hampshire an inquiry concerning this question. It was a completely nonpartisan list of questions, available to everyone.

As of 10 a.m. today, 3 weeks later, he had received 5,500 replies. Of the 5,500, 4,512, or 83 percent, voted in favor of a

runoff. Seventeen percent, or 949, voted in favor of having the Senate decide.

In a small State such as New Hampshire, this is an amazing response, but it clearly points out what the outside world feels ought to be done in this instance, whether they are Republican or Democrat.

So I hope the Senate will support the amendment of the distinguished Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I am ready to vote.

Mr. CANNON. Mr. President, I shall take 1 minute, to simply point out that on June 17 the Senate voted on the Weicker amendment to declare the seat vacant, and defeated it 43 to 55. On June 18, the Senate voted on the Allen amendment to declare the seat vacant, and defeated it 40 to 59. On June 20, the Senate voted on the Helms amendment to declare the seat vacant, and it was defeated 29 to 52. And on June 24, the Senate voted on the Scott amendment to declare the seat vacant effective June the 24, and it was defeated. This amendment changes the date to June 25.

I am ready to vote, Mr. President.

Mr. HUGH SCOTT. I thank the Senator.

Mr. President, if 83 percent of the people of New Hampshire want it back, I would like 51 percent of the Senate to agree with 83 percent of the people of New Hampshire. I am ready to vote.

The PRESIDING OFFICER (Mr. GLENN). The question is on agreeing to the amendment of the Senator from Pennsylvania (Mr. HUGH SCOTT). 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 Wyoming (Mr. MCGEE), the Senator from Alaska (Mr. GRAVEL), and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 42, nays 53, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—42

Baker	Fong	Roth
Bartlett	Garn	Schweiker
Beall	Goldwater	Scott, Hugh
Bellmon	Griffin	Scott,
Brock	Hansen	William L.
Brooke	Helms	Stafford
Buckley	Hruska	Stennis
Byrd,	Javits	Stevens
Harry F., Jr.	Laxalt	Taft
Case	Mathias	Talmadge
Curtis	McClellan	Thurmond
Dole	McClure	Tower
Domenici	Packwood	Weicker
Eastland	Pearson	Young
Fannin	Percy	

NAYS—53

Abourezk	Cannon	Glenn
Allen	Chiles	Hart, Gary W.
Bayh	Church	Hart, Philip A.
Bentsen	Clark	Haskell
Biden	Cranston	Hathaway
Bumpers	Culver	Hollings
Burdick	Eagleton	Huddleston
Byrd, Robert C.	Ford	Humphrey
Inouye	Metcalf	Proxmire
Jackson	Mondale	Randolph
Johnston	Montoya	Ribicoff
Kennedy	Morgan	Sparkman
Leahy	Moss	Stevenson
Long	Muskie	Stone
Magnuson	Nelson	Symington
Mansfield	Nunn	Tunney
McGovern	Pastore	Williams
McIntyre	Pell	

NOT VOTING—4

Gravel	Hatfield	McGee
Hartke		

So Mr. HUGH SCOTT's amendment was rejected.

Mr. CANNON. Mr. President, I send a perfecting amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an amendment:

Insert the following paragraph at the end of line 7 of the Allen amendment, numbered 605, as modified:

The Senate shall not conduct a recount of the following precincts because of alleged inaccuracies in the tally sheets of the Secretary of State of New Hampshire: Merrimack, Meredith, and Lancaster.

Mr. CANNON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, this is issue No. 2 of the so-called resolution, and I assure my colleagues now that they are going to have the opportunity to vote on issue No. 2. We have been prevented from voting on any of these issues so far. This will assure that at least we get a vote on one of them. I shall try to insure that we vote on every one of them as rapidly as I can get to them.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 44 Leg.]

Allen	Griffin	Mansfield
Bellmon	Hansen	McClure
Brock	Hart, Gary W.	McGovern
Byrd,	Hathaway	Muskie
Harry F., Jr.	Humphrey	Schweiker
Cannon	Inouye	Stennis
Dole	Javits	Stevens
Fannin	Johnston	Stone
Glenn	Leahy	Weicker

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Abourezk	Garn	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pastore
Bayh	Hart, Philip A.	Pearson
Beall	Hartke	Pell
Bentsen	Haskell	Percy
Biden	Helms	Proxmire
Brooke	Hollings	Randolph
Buckley	Hruska	Ribicoff
Bumpers	Huddleston	Roth
Burdick	Jackson	Scott, Hugh
Byrd, Robert C.	Kennedy	Scott,
Case	Laxalt	William L.
Chiles	Long	Sparkman
Church	Magnuson	Stafford
Clark	Mathias	Stevenson
Cranston	McClellan	Symington
Culver	McIntyre	Taft
Curtis	Metcalf	Talmadge
Domenici	Mondale	Thurmond
Eagleton	Montoya	Tower
Eastland	Morgan	Tunney
Fong	Moss	Williams
Ford	Nelson	Young

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment of the Senator from Nevada.

The yeas and nays have been ordered.

Mr. ALLEN. Mr. President, the Senator from Alabama has had the amendment before the Senate for 2 or 3 days and has been hopeful that he would get a vote on the amendment.

I believe it is a basic amendment, an amendment, I believe, which would allow the Senate to make progress on this very difficult, complex, and knotty problem.

Amendment 605, as modified, has to do with the matter of "skip-candidate" votes, and would require the Rules Committee to obtain from the 185,000 ballots on hand an equal number of "skip-Durkin" ballots to the number of "skip-Wyman" ballots presently before the Rules Committee and, under the Resolution 166, before the Senate.

It would require actually 11 ballots because there is one "skip-Durkin" ballot and 12 "skip-Wyman" ballots, and would allow this question of what to do with the "skip-candidate" ballots to be decided as to both candidates on the same basis.

As I stated, Mr. President, when I introduced the resolution it would decide 15 questions, 15 out of the 35 questions, as certified to the Senate under Senate Resolution 166, and would be almost one-half of the entire task that the Senate has been assigned by the Rules Committee.

Why we are not willing to vote on that issue the Senator from Alabama does not understand. One amendment after another is filed to his amendment, and we are not able to get a vote on a basic amendment that could be decisive of 15 issues and that, in my judgment, would break the logjam that has developed here in the Senate.

The distinguished Senator from Nevada, the chairman of the Rules Committee, has offered still another amendment—this is the first amendment he has offered—but it is still another amendment to my amendment and, naturally, would be voted on first, and we still would not have a vote on the one amendment that has some chance of breaking the logjam and, in one vote, deciding 15 of the 35 issues before the Senate.

So, having 15 issues embraced in one vote under amendment No. 605, as modified, and the distinguished Senator from Nevada (Mr. CANNON) having injected still another issue into the matter pending before the Senate, it is going to be my purpose to modify my amendment by adding the pending amendment of the Senator from Nevada (Mr. CANNON) to my amendment.

While I have the floor, Mr. President, I want to commend the distinguished Senator from Nevada for the manner in which he conducted the hearings on this matter, for his dedication, his hard work, for his mastery of the intricacies of the problem, for his good-faith efforts. It just so happens that the Senator from Alabama on some 35 occasions out of somewhat over 900 votes disagreed with the conclusion that the Senator from Nevada reached with respect to specific ballots and issues.

So, Mr. President, in order to add still another issue to the 15 issues already covered by the amendment from the Senator from Alabama, I modify my amendment by adding to it the provisions of the pending amendment offered by the Senator from Nevada (Mr. CANNON). Inasmuch as the distinguished Senator is not present here in the Chamber, having now offered the modification, as soon as the modification is stated, the Senator from Alabama will put in a quorum call in order that the Senator from Nevada can be in the Chamber to face the changed conditions of the parliamentary situation.

So I ask that my amendment be modified and ask that the clerk state the modification.

The PRESIDING OFFICER (Mr. STEVENS). The amendment is so modified and, since it is so modified, the amendment of the Senator from Nevada falls.

The clerk will state the amendment, as so modified.

The legislative clerk read as follows:

Between lines 6 and 7 on page 1 add the following:

"(1) (a) It is the sense of the Senate that the Committee on Rules and Administration retrieve from the ballots, of a skip-candidate type, a number of skip-Durkin votes equal to the number of skip-Wyman votes before the committee, and that all such skip-candidate votes be considered by the committee.".

The Senate shall not conduct a recount of the following precincts because of alleged inaccuracies in the tally sheets of the Secretary of State of New Hampshire: Merrimack, Meredith, and Lancaster.

On line 7 renumber (1) as (1) (b).

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

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

Mr. ALLEN. I yield.

Mr. CRANSTON. I would like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CRANSTON. What was the effect of the action taken?

Mr. GRIFFIN. I was going to ask the same question, Mr. President.

The PRESIDING OFFICER. The effect of the action, as I understand it, was to modify the amendment of the Senator from Alabama, to incorporate the amendment of the Senator from Nevada and, as such, the amendment of the Senator from Nevada falls.

Mr. GRIFFIN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Was the Senator from Alabama entitled to so modify his amendment without unanimous consent?

Mr. ALLEN. I did not understand the question.

Mr. GRIFFIN. Was the Senator from Alabama entitled to modify his amendment without unanimous consent?

Mr. ALLEN. I did not ask unanimous consent. I modified it.

The PRESIDING OFFICER. The Senate had taken no action on it. The yeas and nays were not ordered, and the Senator was entitled to modify his amendment.

Mr. CRANSTON. Mr. President, I still do not understand the final word which was said, the amendment falls?

Mr. ALLEN. It has been embraced in my amendment. I have accepted his amendment and added it to mine.

Mr. CRANSTON. Well, I ask for a division then on the Senator's amendment.

The PRESIDING OFFICER. The Senator from California wishes to divide?

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. The two issues?

Mr. CRANSTON. So that there can be a separate vote, one on each issue.

The PRESIDING OFFICER. The amendment is so divided.

Mr. ALLEN. Mr. President, that then would call for the amendment of the Senator from Alabama to be voted on first, rather than the amendment of the Senator from Nevada, which under the previous situation would have been voted on first, is that not correct?

The PRESIDING OFFICER. The Senator from Alabama is correct.

Mr. ALLEN. Mr. President, I might state——

Mr. CRANSTON. May I make one parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. CRANSTON. Does that mean the Senate could vote down one or the other, and if one prevailed and the other did not it would stand by itself?

For example, if we vote down the Cannon amendment and vote up the Allen amendment, the Allen amendment is carried. If we do the opposite, the Cannon amendment carries.

The PRESIDING OFFICER. The Chair, understanding there is now one amendment, it has been divided into two issues, the original Allen amendment to be voted on first and then the Cannon language to the Allen amendment voted on second. They will be voted upon separately and should either be adopted by the Senate, the language would survive as an amendment.

Mr. CRANSTON. I thank the Chair.

Mr. ALLEN. Mr. President, I am perfectly willing to vote on my amendment. I have not been discussing it because there are other amendments to my amendment which have been pending. I am perfectly willing to set a time limit to vote now or to vote at any time certain in the future, and I would throw out the suggestion and the hope to the membership of the Senate that a time certain be set on the amendment.

Mr. GRIFFIN. Will the Senator from Alabama yield?

Mr. ALLEN. Yes.

Mr. GRIFFIN. I am going to take it upon myself, although I have not had an opportunity to consult with some I know have an interest, and suggest that maybe if we were to vote about 4:30 on his amendment, that that might be acceptable.

There are some Senators from both sides who are down at the White House right now for a matter, that would prevent us from voting anywhere in the near future, but I think 4:30 would be an acceptable time, perhaps we could consider that.

Mr. ALLEN. That would be satisfactory with the Senator from Alabama.

Is the request going to be made to that effect?

Mr. GRIFFIN. That would be on the first item of the divided amendment that we are talking about.

Mr. CRANSTON. Well, in the absence of the Senator from Nevada whose amendment it is, it would seem to me it would be appropriate to set a time for voting on both portions of the amendment, the Senator from Alabama's first and then the Senator from Nevada's second and a time——

Mr. GRIFFIN. I would say to the Senator from California, these are two entirely separate, different issues.

The Senator from Alabama has had his amendment pending now for several days. We have not had debate on the issue that has now been tacked on as an amendment, or as a modification of his amendment.

Mr. CRANSTON. Will the Senator yield?

Mr. GRIFFIN. Since his is going to be the pending question, even though it has been pending, he has not had much opportunity to talk about it and we have not had much opportunity to give it over here. We would be willing to vote on his amendment, that is, the first part of the amendment as it has been divided, but we want to reserve time on the second part.

Mr. CRANSTON. Reserve time, but fix a time?

Mr. GRIFFIN. I am not in a position at this time to suggest a time on this.

Mr. CRANSTON. I would like to correct one statement that the Senator made.

We have had a considerable discussion of the matter involved in the Cannon amendment. Perhaps there has not been an opportunity for everybody who wishes to speak on it, but there has been discussion of that matter.

Mr. GRIFFIN. The Senator may well be correct.

As far as the amendment of the Senator from Alabama, however, it is important, it represents an important vari-

ation from the concept that all skip-ballots would be retrieved and treated on the same basis.

His does not do that and there are some other arguments that apply to his amendment that do not apply to the concept of retrieving all the skip-ballots.

Mr. ALLEN. I thank the distinguished Senator for his suggestion and his pointing out of the difference.

I might say that I feel that taking out a given number, rather than to go through the entire 185,000 looking for skip-candidate ballots, would be much more practical, because under the law of New Hampshire the skip-candidate ballots with the straight-ticket marking on the ballot would cost a vote for every candidate in that column whether or not the square opposite his name, the small square, had a mark in it or not.

If several hundred of these ballots are brought in and the law of New Hampshire is applied, giving those votes in exactly the same fashion that they were given by the secretary of state and the ballot law commission, we have just compounded a nullity. We have done something that is absolutely futile, to bring in all of the ballots.

On the other hand, affidavits indicating that there are several hundred skip-Durkin ballots in the mass of 185,000 and Mr. Wyman not having contested those at the New Hampshire level and the New Hampshire authorities having counted those ballots for the candidate in the straight ticket column, then there is no need of bringing out more than enough to offset the ones that are before the committee and to take out more would just be a useless exercise.

So it seems to the Senator from Alabama that this amendment of his would decide 15 specific issues. Issue No. 6 in Senate Resolution 166, issue No. 6, issue No. 7, and issues 12 through 24 are both inclusive.

Going the other route, we would have a mass of several hundred ballots, and if they were thrown out then that would decide the election on a misapplication and misconception of the New Hampshire law.

But if they were granted to the person that they were given to by the secretary of state and the ballot law commission, what is the use of having brought them out?

So with very little trouble, possibly one day's time, 11 such ballots could be found, brought in, to accomplish the one skip-Durkin ballot before the committee and before the Senate, that would offset the 12. Now, that does not say count them either way.

Just count both groups alike. Either disallow them or give them all to the candidate who supposedly was skipped, but who in actuality, under the law, received the vote by virtue of the straight ticket marking in the circle under the emblem.

Mr. HARRY F. BYRD, JR. Going beyond the scope of the Senator's amendment, did I understand the Senator correctly that under the New Hampshire law and customs, if a ballot is marked with an X at the top of the ballot, that carries with it a vote for all of the party candidates whose names are listed under that X?

Mr. ALLEN. That is correct. It differs from the Virginia law, where a straight ticket cannot be voted, as I understand it.

Mr. HARRY F. BYRD, JR. Virginia does not have a straight ticket procedure.

Mr. ALLEN. That is correct.

Mr. HARRY F. BYRD, JR. Personally, I do not approve of the straight ticket procedure, but the people of New Hampshire are entitled to have whatever procedure they wish to have. I feel obligated to follow the New Hampshire law, if I can understand just what is the New Hampshire law.

If a person marks an X at the top of a particular ticket and then goes down the list, he or she, as I understand it, has the right to strike out by a pencil mark or otherwise a particular name. If that is the case, then is my understanding correct that it is a straight ticket except for that individual whose name is stricken through?

Mr. ALLEN. That is correct.

Mr. GRIFFIN. Will the Senator from Alabama yield to me to add to the answer?

Mr. ALLEN. Yes.

Mr. GRIFFIN. I think it would be appropriate, if I might suggest, to read at this point from chapter 59, section 58 of the statute of New Hampshire, which reads as follows:

> On receipt of his ballot, the voter shall forthwith and without leaving the enclosed place retire alone to one of the voting shelves or compartments and shall prepare his ballot by marking a cross in the circle if he desires to vote a straight ticket. If he desires to vote for a candidate whose name is not printed under the circle in which he has marked, he shall erase or cancel the name of the candidate in such column for whom he refuses to vote and may vote for the candidate of his choice by marking a cross in the square opposite the name of such candidate or by writing in the name of the person for whom he desires to vote in the right-hand column prepared for that purpose.

Mr. HARRY F. BYRD, JR. Would it be correct, then, to assume that once an individual marks an X in the circle at the top of the ballot, that carries with it a vote for everyone below the circle unless the voter takes affirmative action to strike out and insert, or at least strike out?

Mr. GRIFFIN. This is the understanding of the junior Senator from Michigan of the law of New Hampshire. It was also the understanding of all the precinct officials, so far as we know, who counted similar ballots. The affidavit evidence is that there are hundreds of such ballots in the 180-some-thousand ballots.

It was the understanding of the secretary of state, who passed on this question, and it was the understanding of the bipartisan ballot law commission, which also passed on this question, and who counted all of those as straight party votes.

In other words, it is not necessary to vote twice for a candidate.

The difficulty of trying to apply so-called voter's intent to this "skip" ballot situation is this: We can only speculate whether the voter started out by putting an X in the circle and then went down and deliberately put X's in certain squares and not in others. He might have done it that way. Or he might have started out by making the X's in squares opposite the candidates' names intending to leave out a candidate or certain candidates. But then maybe he got to the end of that and said, "Well, I will just give them a straight party vote."

There is no way that we can know which of those two procedures the voter followed. So we have to follow the law.

In my State, if a voter votes on a machine, a person goes in and pulls the straight party lever. That automatically puts an X in the square opposite all of the candidates in that party column. It just automatically happens. This is the same thing, constructively.

If a voter is voting on a machine in my State and he pulls the straight party lever and then does not want to vote for one of the candidates in that particular party column, he goes back and has to do something affirmatively to cancel his vote. He can do that. He can go back and pull up the little lever beside that candidate's name and then he can cancel out that vote. But unless he does that, he has given a straight vote. It is the same way on a paper ballot under the laws of New Hampshire.

Mr. HARRY F. BYRD, JR. Will the Senator yield further?

Mr. ALLEN. I yield.

Mr. HARRY F. BYRD, JR. As I gather from the comment of the Senator from Michigan, all the evidence presented to the committee was that in the State of New Hampshire the election officials counted the ballots, marked at the top for all of the candidates under that party label unless a candidate's name was stricken or unless it was stricken and the individual opposite his name on the other party for the same office was marked?

Mr. GRIFFIN. I do not want to mislead the Senator from Virginia. The attorneys for Mr. Durkin presented the argument before the Rules Committee that this is not the law of New Hampshire; that it is only necessary to determine what the voter's intent is. Under that broad umbrella or concept they could disregard what the statute clearly said. This is their argument.

Mr. HARRY F. BYRD, JR. I am referring to how the ballots were actually counted by the officials in New Hampshire.

Mr. GRIFFIN. That is correct. But, as a matter of fact, there is no dispute that I am aware of to the fact that they were counted at every level in the State of New Hampshire as a straight party vote by the precinct officials, by the secretary of state, and by the bipartisan ballot law commission. Every indication we have had is that that has always been the law of New Hampshire.

I recognize, of course, that there is a Senator from New Hampshire present who probably has something else to say.

Mr. CRANSTON. Will the Senator yield to me first? I checked with Senator CANNON and he is willing to agree to a 4:30 vote on the Allen amendment, if

that is the desire. Can we get the yeas and nays so we know we are voting?

Mr. GRIFFIN. We can get the yeas and nays but I would like to have a few moments to check. I am not ready to agree at this moment.

Do we have the yeas and nays?

Mr. ALLEN. No. They have not been requested yet.

Mr. McINTYRE. Will the distinguished Senator from Alabama yield?

Mr. ALLEN. I will be glad to yield the floor, I say to the distinguished Senator, and let him make his statement. Is that satisfactory with the Senator?

Mr. McINTYRE. Does the Senator yield the floor?

Mr. ALLEN. I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. McINTYRE. Mr. President, there is no doubt that there is a difficult decision to be made on the so-called "skip-Louie" and "skip-John" ballots. For the benefit of my colleagues, I want to offer some clarification of New Hampshire law on this issue. While the statute indicates that a mark in the upper circle, the straight ballot circle, so to speak, carries with it, by legislative fiat, a constructive X or a vote in all of the candidates' squares beneath, this is a legislative enactment only. The Supreme Court of New Hampshire has ruled on several occasions that this legislative direction does not control in an inquiry as to how the ballot should be counted.

In the leading decision, the Murchie case, the court held that and I quote, "the legislature may enact the method by which a man or woman shall vote, but the legislature cannot direct how the ballot he casts shall be counted." Therefore, our courts have said that they will not be bound by this legislative fiat; that they, in their judicial capacities, will take a look at the whole ballot, to determine the intention of the voter.

So, as one examines the skip-John or the skip-Louie ballots, there must arise in any reasonable person's mind the question of what the voter intended when he or she put the big X in the circle, and then voted for the Governor, and then, unfortunately for Mr. Wyman, did not put an X in the candidate box beside Mr. Wyman's name, and then went on, in every case, to vote for the remaining candidates on the ballot.

The argument is further strengthened by the fact that, according to my recollection, subject to being corrected, before the ballot law commission the Durkin forces were challenging or had challenged a number of ballots where voters, voting the straight Republican ticket, had voted, say, for Governor, had skipped Louie, and then skipped two or three other candidates. In those cases, because it watered down the significance of that lone box with no X in it, the Durkin forces receded from advancing the claim that this was a no-vote for either party.

The important thing for my colleagues to remember—and I realize a difficult judgment must be made—is that the intention of the voter is supreme, and that the courts in New Hampshire have ruled consistently that statutory language must give way in the face of other evidence of the voter's intent.

In other words, Mr. President, when the voter puts that big X up there at the top, that is not the end of it. The other markings on the ballot, or the absence of other markings on the ballot, must be taken into account, because it is the intention of the voter that is paramount.

That is why I had no difficulty in voting against the Brock amendment yesterday.

I do not pretend to tell the Senate what the law in New Hampshire is. I give you only my conclusion that the skip-Louie votes and the skip-John votes should not be counted.

AMENDMENT NO. 627

Mr. GRIFFIN. Mr. President, I submit, on behalf of the distinguished Senator from Pennsylvania (Mr. HUGH SCOTT), an amendment to the pending Allen amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 1, line 2, strike all after the word "That" and insert the following: "the staff of the Committee on Rules and Administration, accompanied by a representative of each contestant, shall retrieve from the ballots in the custody of the United States Senate any and all of the so-called "skip candidate" ballots and shall present them to the committee for its review and ruling.".

The PRESIDING OFFICER. It is the Chair's understanding that this is an amendment to the first division of the Allen amendment. Is that correct? The Allen amendment has been divided into two parts. Is the Senator offering this amendment to the original Allen language?

Mr. GRIFFIN. It is not necessarily limited to that. I ask for the Chair's ruling as to what the effect would be.

The PRESIDING OFFICER. It is the Chair's ruling that this amendment would apply only to the original Allen language, or division 1 of the Allen amendment as divided.

Mr. GRIFFIN. Does the fact that the division has been requested preclude an amendment which would strike out the second section in connection therewith,

The PRESIDING OFFICER. The second division of the Allen amendment is not before the Senate until the Senate has voted on the first division of the Allen amendment, and that first division is amendable.

Mr. GRIFFIN. I thank the Chair.

Mr. President, this amendment would give the Senate an opportunity, it seems to me, to vote in a logical sequence, if we are going to address this matter of the "skip-candidate" ballots.

The amendment of the Senator from Alabama proposes that the Senate retrieve from those ballots which were not in the group of 3,500 that came before the Rules Committee, proposes that we go into the 180,000-some-odd ballots and retrieve only an equal number of ballots. In other words, I take it the purpose of this amendment is to render this issue moot.

That has a certain amount of appeal, I suppose. It would be nice if we could take a sticky or thorny issue and somehow just put it aside, erase it, or forget about it.

But it does not seem to me—and I expressed this view in the committee—that this is really an appropriate or proper way to determine the outcome of this election. I do not see how we can constitutionally do that. Each voter in New Hampshire is entitled to one vote, and if we are not going to count all of those skip-type ballots in the same way, regardless of what our decision is as to what the New Hampshire law is, then we have denied some of the voters their franchise in determining who is to be the Senator for the State of New Hampshire.

So, much as I admire and often agree with the Senator from Alabama in his positions with respect to this New Hampshire election contest, I disagreed with him in the Rules Committee on this as a solution.

The Brock amendment, I thought, made sense, where the Senate was offered the opportunity to make a decision to count the ballots that came before us in the same way that the ballot law commission counted those ballots, with respect to others that did not come before it. Whatever the number is, we have had affidavits that there are hundreds of skip-type ballots that were just counted, never protested, and never came before the committee.

We had the opportunity, in the Brock amendment, to just go ahead and count the 12 ballots in that category in the same way that all the rest of them were counted. But the Senate voted that down.

If the Senate is going to take the position that those are not straight party votes, and they are going to be ruled out and counted as no-votes, then I do not see how we can logically apply that decision by only pulling out an equal number of skip-Durkin ballots from the 180,000 group and saying that we have thereby settled the issue. We will have avoided the issue.

I do not know what the result would be, because I do not have any idea how many ballots of one type or the other are in that group of 180,000 ballots. But we will not have determined the election in accordance with the vote of the people of New Hampshire if that should be our procedure.

I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, despite my high regard for the Senator from Alabama, I doubt that I can support this amendment, certainly not at the moment.

What I feel obligated to do is follow, as best I can, the law and the customs of the State of New Hampshire.

What the Senator from Alabama offers does not follow, so far as I can judge, the laws and the customs of the State of New Hampshire.

Is that the understanding?

Mr. GRIFFIN. That is my understanding, in that it accepts the decision or the idea that we are going to change the law, not follow the law with respect to those Wyman ballots that are before us, in other words, not count them, and

then we are going to do the same thing to an equal number of Durkin votes.

Mr. HARRY F. BYRD, JR. So, what it does do is to moot the question, but it does not, should we say, solve the problem insofar as the legality of the proceedings is concerned?

Is that the attitude of the Senator?

Mr. GRIFFIN. That would be my view.

Mr. NUNN. Mr. President, will the Senator yield for a brief question on this?

Mr. GRIFFIN. I yield.

Mr. NUNN. I follow the theoretical logic of the dialog between the Senator from Virginia and the Senator from Michigan which is, if we went by the amendment of the Senator from Alabama and pulled 12 skip-Durkin ballots out and equated that with 12 skip-Wyman ballots, and did not count any of those, that we would be treating those 12 on each side differently from presumably others that are being counted in the remaining ballots. I understand that theoretically.

But getting away from theory a minute and getting down to practicality and equity, it seems to me that is what the Senator is proposing. I have not made up my mind how I will vote on that amendment. It seems to me that there could be no quarrel with the equity of this situation, that there can only be a quarrel with the theory, because what the Senator from Alabama is doing is putting both parties on exactly the same footing, that is, all of their skip ballots that are in the 180,000 that are not being pulled out would be counted presumably under the New Hampshire law, and yet the 12 ballots of each of them would be knocked out.

It just seems to me that that is perfect equity. Perhaps I am not following it.

What is inequitable about that position, in any sense? What is inequitable about it?

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

Mr. NUNN. Yes.

Mr. BARTLETT. He used the word "theory," but is the Senator not actually talking about principles, principles of voting? The Senator is equating the result of setting aside so many skip-Durkin ballots to offset the skip-Wyman ballots, and that would be the same as if he counted all of the straight party ballots according to the New Hampshire law, as I interpret it, for Durkin and for Wyman. What the Senator is saying brings him to the same result, but it brings him to the same result in a different way.

Mr. NUNN. That is why I differentiate between theoretical and practical. I think we would have the same result. Unless I am arithmetically confused, which is always a possibility, we could either take those 12 out on each side or we could count them on each side.

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

Mr. NUNN. We would have the same result, would we not?

Mr. BARTLETT. If the Senator will yield, though, we get, then, to the point of counting all the ballots, which I think is a very important thing to do, if we are going to not send this matter back to the New Hampshire voters.

Mr. NUNN. Counting all the skipped ballots.

Mr. BARTLETT. Counting all the ballots. I think we are kidding ourselves when we talk about deciding this question and not considering the count of every single ballot cast in the election.

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

Mr. NUNN. I say to the Senator from Oklahoma, in response—and I am not sure I have the floor, but I am assuming I do for the moment—it seems to me we would have the same result whether we took those 12 out on each side or whether we included those 12 in.

Mr. HELMS. So far as equity is concerned.

Mr. NUNN. I do not know what the big debate is. It looks like to me that this side of the aisle is debating a point that is a distinction without a difference.

Mr. McCLURE. Mr. President, may I make a suggestion?

Mr. NUNN. If I were one of those 12 voters and theoretically they kicked out my ballot, as long as they did it to the other fellows, too, it would not make any difference to me as long as the result were the same. We eliminate 12 on both sides or we count 12 on both sides, and we get exactly the same result.

I do not think there is any constitutional or any law involving elections that is not really aimed at doing equity.

I think that is what we ought to be trying to do here in the Senate. So, I am not really arguing for the amendment of the Senator from Alabama which I may be misinterpreting, but I am just trying to arrive at some kind of logical conclusion about why anyone on this side of the aisle would oppose it.

I can understand why some people on my side of the aisle might oppose it, assuming there may be some partisan spirit going around here, which I would hope would not prevail in the long run, but I just cannot understand why anyone on the Republican side of the aisle would oppose it, unless we assume the Republicans are all theoretical and do not have any practical concern about the result of this situation. I am not sure I would labor under that assumption.

Mr. McCLURE. I think we are concerned about the practical and not the theoretical.

Mr. NUNN. I would think so.

Mr. McCLURE. I would think that the Senator from Georgia is proceeding under the assumption that either there would be no search for the "skip-Durkin" ballots; therefore, the committee would just simply say, "We assume they are there, and they will cancel out; therefore, they will end up even," or the Senator from Georgia must assume that they actually go back into the ballots and look for "skip-Durkin" ballots until they come up with a number equal to the 12.

Mr. NUNN. Based on the affidavit that the Wyman position has brought forth of the former Governor, then I am assuming that affidavit is accurate and that there are ample "skip-Durkin" ballots or there would be no difficulty finding 12.

Mr. McCLURE. Does the Senator assume they actually go back and look for them and actually find them?

Mr. NUNN. Maybe I am misinterpreting the Allen amendment, but I thought that was what the Allen amendment was all about.

Mr. McCLURE. All right. That is what I understand it to be also.

But assume for a moment with me, if the Senator will, that as they go back to look for the "skip-Durkin" ballots they find more "skip-Louie" ballots. What then does the Senator from Georgia do or the Senator from Alabama do?

Mr. NUNN. I would have to go back and look at the amendment very carefully, but I assume the search would be only to equate the number of "skipped-Wyman" with the "skipped-Durkin."

Mr. McCLURE. So if the Senator finds more "skipped-Louie" ballots he ignores them, pretends he does not see them, and looks only for the "skipped-Durkin" ballots until he finds 11 more?

Mr. NUNN. Under the amendment of the Senator from Alabama that is the way I would interpret that amendment.

Of course, if the Senator wanted to go to the broader situation, the only alternative to that is to go to the amendment of the Senator from Pennsylvania, go back through all of the ballots, look for all of the skips, and bring all of them together, and then treat them one way or the other.

Theoretically, the Senator would arrive at the same result as under the Allen amendment, the way I see it. One would arrive at the same result. The only problem is that some people are concerned, and perhaps legitimately so, that in the 180,000-odd ballots, there has been what, four, five, or six recounts, and they have not had complete security; therefore, we may be opening the door to an awful lot of possible changes in the ballots if we go back and look at all of them.

Mr. McCLURE. I would say to the Senator when we get into the question of ballot security or the issue of recounts, and there are a couple of other things that ought to be said about that, but let us confine ourselves for the moment to the skip ballots.

Mr. NUNN. The Senator from Alabama has just come into the Chamber. We are discussing the amendment of the Senator from Alabama, and the Senator from Georgia is trying to decide in his own mind why anyone on this side of the aisle would oppose the Allen amendment. I made the statement that I had not arrived at a conclusion on it, and I can understand why someone on this side of the aisle might oppose the Allen amendment, but it seems to me the Allen amendment is aimed at doing equity and treating both parties exactly alike and doing it in a manner that we would not have to recount all the ballots.

Mr. ALLEN. That is exactly right, of course. The Senator from Alabama does not understand why anyone on either side of the aisle would be against his amendment.

Mr. NUNN. The Senator from Alabama is so bipartisan in his spirit that I would assume that would be his logic.

But even assuming there was partisanship on this side and partisanship on the other side of the aisle, which I would hope would not prevail in the final analysis, as I said, it seems to me, even presuming that that there would be very little difficulty for anyone on this side of the aisle to be opposed to the Allen amendment unless they were more interested in theory than they were in equity.

Mr. GRIFFIN. I think one answer to it, I will say very candidly, to the Senator from Georgia, is that the skipped-candidate issue is not the only issue in this case. There are some other very important issues, and some of those, if the Senate is going to do its job adequately, fairly and completely will involve going back into those ballots on some other issues, specifically retallying, for example, not judgment calls as to whether they are Durkin or Wyman votes, but retallying the number of votes in certain precincts.

I think that one of the things that concerns us is the assumption or the likelihood that the Senate might think it has done its job by only doing this little bit; whereas, actually, we should go back and look at all of the skip-type ballots that were cast and treat them all the same. It may well be that the vote would come out different. It might help Mr. Durkin. I do not know.

Mr. ALLEN. I hardly feel that just because there does not seem to be any immediate prospect of gaining several points on behalf of Mr. Wyman's position, it would prevent looking at this issue objectively.

The Senator from Alabama, throughout the entire proceedings, has tried to look objectively at this whole issue. He feels that he has succeeded in doing that.

When he made the motion in the Rules Committee on which this amendment is based, he asked no one's opinion of the merits of the motion that he made in the Rules Committee.

I might say that on the first vote on this motion of the Senator from Alabama in the Rules Committee, it received five votes affirmatively and only three against it. So, apparently, at one time, even a majority of the Rules Committee thought it was an equitable solution.

If this logjam that exists in the Senate is to be broken, I believe resolving these 15 issues that are embraced in amendment 605, as twice modified, would be the way to break this logjam. If these 15 issues are decided, I have every reason to hope that a time limit can be agreed upon with respect to the other 20 issues. Certainly, I believe we would be moving in that direction.

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

Mr. ALLEN. I yield.

Mr. BARTLETT. The Senator from Oklahoma feels that he sees the practical result of the amendment of the Senator from Alabama. I ask the Senator from Alabama this question: Does he feel that the treatment by the Rules Committee of the "skip-Louie" or "skip-Wyman" ballots was according to the New Hampshire law?

Mr. ALLEN. I point to the vote of the Senator from Alabama, which was to count the ballots for Mr. Wyman, feeling, according to my construction of the law, that he was entitled to those votes; further, that the secretary of state of New Hampshire, who should have some little knowledge of New Hampshire law, and the ballot law commission, which should have some little knowledge of New Hampshire law, had counted these votes for Mr. Wyman.

That information does not come about by anyone peeking at the backs of the ballots. That came out in testimony before the committee—that the ballot law commission had allowed these votes to go to Mr. Wyman.

So the Senator from Alabama is merely trying to call each and every one of these issues as he sees fit, and he is ready to vote on any issue at any time. He certainly has sought a vote on his own amendment; but, for some reason or other, it seems to be ensnared in parliamentary maneuvers on the floor. The Senator is surprised that such a thing would take place. But somewhere along the line, he hopes that there will be an up and down vote on his amendment, because he believes that it will help solve this issue.

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

Mr. ALLEN. I yield.

Mr. McCLURE. I had asked the Senator from Georgia this question earlier. In a procedural sense, I assume that the Senator from Alabama does not merely conclude, without an actual search of the ballots, that there actually would have to be a physical review of the ballots.

Mr. ALLEN. Yes. There are affidavits in the record that there was a large number, and statements made by Mr. Wyman's side that there were several hundred. Unless the law of averages went astray here, it would not be necessary to examine possibly more than 10,000 or 15,000 ballots to get 11. It will take only 11 ballots.

Mr. McCLURE. Mr. President, will the Senator yield further?

Mr. ALLEN. I yield.

Mr. McCLURE. If, in the process of going through those ballots, there were more "skip Louie" ballots discovered, would the Senator's amendment have those counted or ignored?

Mr. ALLEN. They would be ignored, because the effort would be made to put the candidates on exactly the same basis. It would not tell the committee how to count these ballots, to say whether they were skipped ballots or ballots cast for the candidate alleged to have been skipped. It would simply assume that the Rules Committee would apply the same yardstick to the exact question before the committee.

Mr. NUNN. Mr. President, will the Senator yield for a question on that point?

Mr. ALLEN. I yield.

Mr. NUNN. From an equity point of view and from a result point of view in the election, it would not make any difference, once they found 12 ballots that were skip-Durkin type ballots and they had 12 ballots that were skip-Wyman—it would not make any difference whether they did or did not count them.

Mr. ALLEN. That is right.

Mr. NUNN. Because the remainder would be in there and would have been counted under New Hampshire law.

Mr. ALLEN. That is right. It would have to be applied to all 24. You could not say that it did not make any difference as to the new ones found. It would not make any difference whether you counted all skip-ballots for the candidate or against the candidate.

Mr. NUNN. So long as it was consistent.

Mr. ALLEN. That is right.

Mr. NUNN. And so long as you treated the skip-Durkin ballots the same as you treated the skip-Wyman ballots.

Mr. ALLEN. That is right.

Mr. NUNN. The Senator's amendment does not instruct the committee one way or the other?

Mr. ALLEN. It does not.

Mr. NUNN. The committee could count them all or come back and say they are not going to count them all, and the Senate at that stage could override whatever the committee did, could it not?

Mr. ALLEN. It could, but I will not anticipate that.

Mr. NUNN. In the final analysis.

Mr. ALLEN. As a matter of fact, the committee would not certify anything over to the Senate, because it would have decided that issue.

Mr. NUNN. The Senate would have the ultimate review of it.

Mr. ALLEN. That is correct.

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

Mr. ALLEN. I yield.

Mr. BARTLETT. If there were this offset, by taking the same number, 11 or 12 "skip-Durkin" ballots, and let us say the committee insisted on its ruling that the New Hampshire law would not be followed, and actually there were more than 11 or 12 "skip-Durkin" ballots, then would not unfairness be displayed on the part of the committee and the Senate in the counting of the ballots?

Mr. ALLEN. The trouble is that under the amendment, the committee would stop when they reached 11. I say 11 because there are 12 "skip-Wyman" votes—one "skip-Durkin" vote, and it would necessitate locating 11 and then stopping. As I stated a moment ago, any further "skip-Wyman" votes would not be taken into custody.

Mr. BARTLETT. So far as the 12 "skip-Wyman" votes are concerned, is that the maximum number of "skip-Wyman" votes?

Mr. ALLEN. Presently before the committee, yes. Under the amendment of the Senator from Alabama, yes. The ultimate limit of "skip-Durkin" votes, 12—one before the committee and the Senate; 11 more to be sought, if they are there.

I think the Wyman forces would be taking some chance on this, because I heard the distinguished Senator from Louisiana say a couple of days ago that he did not think there were any "skip-Durkin" ballots in the 185,000.

If they are not, after the representa-

tion has been made before the committee that there are several hundred of them there, I should say it would be a damaging blow to the credibility of the Wyman position if they are not there.

Mr. BARTLETT. In other words, the Senator from Alabama is saying that if the Senate would follow the leadership of the committee in not following the New Hampshire law in counting the "skip-candidate" ballots, if there are not 11 additional ballots found, then this would work against Wyman; if there are 11 additional ballots——

Mr. ALLEN. Yes, it would not be decisive of the question, then, because it would still come up in these later questions later on. But I would say it would still be damaging to the credibility of the Wyman position.

Mr. BARTLETT. If there were 11 Wyman ballots found, then it would be a washout?

Mr. ALLEN. That is right, as I see it.

Mr. BARTLETT. If there were more ballots than 11——

Mr. ALLEN. We never would find out, because it would stop at 11.

Mr. BARTLETT. If there were more, the Senator's amendment would preclude finding out if there were more?

Mr. ALLEN. That is correct.

Mr. BARTLETT. And this would work against Wyman if the decision were still to not follow the New Hampshire law in the missed-candidate vote.

Mr. ALLEN. I had never contemplated it to be more, because I felt that it was futile to seek more, because I thought the New Hampshire law required that they be cast for the person in the column above which the straight ticket mark had been made.

Mr. McCLURE. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. McCLURE. If the New Hampshire law is as the Senator from Alabama believes it and as the Senator from Idaho believes it, that the "skip" ballot, where there is no other marking on the ballot, is a valid vote for all those listed in that column, then if that law is applied, these 12 ballots that we are talking about—13 actually—should be counted, 12 for Mr. Wyman and 1 for Mr. Durkin, is that not correct?

Mr. ALLEN. Yes, that is right.

Mr. McCLURE. And the only purpose of balancing it is one of two; that is, if the Senate should decide not to apply New Hampshire law, it would be, then, to achieve a parity between the two, so far as the application of the new rule is concerned by the Senate?

Mr. ALLEN. Yes. I might say that the contention of Mr. Durkin, though, is that they were applying the New Hampshire law on the basis of ascertaining the intent of the voter and that there is no concession on the Durkin position that the committee is not applying New Hampshire law.

Mr. McCLURE. I understand that. I just wanted to set that issue of the law aside for a moment, because if the law is as the Senator and I believe it to be, then these 12 ballots should be counted for Mr. Wyman and the one ballot should be counted for Mr. Durkin. If that is the case, then the Senator's amendment would simply mean nothing, because they would have been counted. His amendment would mean something only in the event that the Senate did not agree with his interpretation and my interpretation of the New Hampshire law.

Mr. ALLEN. That is a fair statement.

Mr. McCLURE. Or that they decided that they were not going to follow New Hampshire law, regardless of their interpretation of the New Hampshire law?

Mr. ALLEN. Yes. I do not believe the Senate is going to do that, however. I think they will follow the New Hampshire law.

Mr. McCLURE. I am not certain in that respect, because the chairman of the Committee on Rules said, in earlier colloquy, that we are not bound by New Hampshire law. He did not see any reason why we had to follow New Hampshire law.

As a matter of fact, there is an amendment pending at the desk which specifically states we are not going to follow the New Hampshire law.

Mr. NUNN. May I ask a question of the Senator from Alabama along this line?

Mr. ALLEN. Yes.

Mr. NUNN. Under the amendment of the Senator from Alabama, just assuming, for the purpose of discussion for the moment, that there is any kind of suspicion that New Hampshire law will not be applied by the Senate in the final analysis—that is to say, if the so-called "skip" ballots are not counted—then if the same assumption carries with it another assumption, that there are more in the overall if we went back and counted all of them, that there are, say, twice as many "skip-Wyman" ballots as there are "skip-Durkin" ballots, then, going to the practical matter, if those two assumptions were considered—that is, that the Senate in the final analysis is not going to count any "skip" ballots and that there are more "skip-Wyman" ballots—assuming that—than there were "skip-Durkin" ballots, would not, from a practical point of view, the Wyman position be in a better position with the Allen amendment than it would be with the Scott amendment?

Mr. ALLEN. Oh, yes, unquestionably.

Mr. DOMENICI. How about the reverse, if the Senator will yield?

Mr. NUNN. If we reverse those assumptions, then the Durkin position would be better.

Mr. McCLURE. Would it be correct to say that the amendment of the Senator from Alabama has the effect of washing out two arguments, one in which the Durkin people say that these ballots should not be counted, they would lose that advantage. On the other hand, the Wyman people lose the possibility of finding more "skip-Durkin" ballots, and therefore, it is simply a practical resolution of the impasse which confronts the Senate?

Mr. NUNN. The position of the Senator from Alabama defuses the whole issue about whether the New Hampshire law is going to be followed or not followed.

Mr. ALLEN. It does.

Mr. NUNN. It wipes out the issue and insures equity to both parties.

Mr. McCLURE. It defuses the issue so far as the "skip" ballot is concerned.

Mr. NUNN. It does. In effect, what it does is apply New Hampshire law in practical effect, because it counts all of the "skip" ballots except 12 on each side, which means that, the 12 means a balanced position between both parties, and the New Hampshire law applies.

I repeat, I have not decided how I am going to vote on this, but the Senator from Georgia cannot understand why the people on that side of the aisle would not favor the Allen amendment. It just does not make any sense to me. I cannot understand it from a theoretical point of view or a practical point of view. Therefore, I simply wonder whether I am misreading the Allen amendment, or whether my interpretation of it is correct. The Senator from Alabama says it is basically a correct interpretation.

Mr. ALLEN. I fear that any opposition by those forces who are for Mr. Wyman's position would not be a very pragmatic approach. I think they would be discarding the resort to commonsense for insistence upon a mere theoretical practice. I feel that the amendment I have offered is backed by commonsense, is backed by logic, is backed by New Hampshire law. I really feel that if we can get this amendment adopted, it will break this logjam. That is my prediction of what would happen.

GASOLINE SHORTAGES AND THE FORD ADMINISTRATION'S MISMANAGEMENT OF THE ENERGY SYSTEM

Mr. JACKSON. Mr. President, we are now entering the summer vacation period, when increased travel raises the demand for gasoline by American families. As so many Americans look forward to visiting their families or their Nation's natural and historic sites, what is the gasoline supply picture?

We face a situation in which Americans may have to wait on gas lines to pay outrageously high prices for motor fuel. It is clear that gasoline inventories have been drawn down to the point that spot shortages in some regions of the country are a very real possibility. It is also clear that as a result of these shortages steep gasoline price increases are a near-certainty.

There are strong indications that the shortage is artificial, that it is contrived, and that it is in fact designed to raise gasoline prices and to set the stage for enormous windfall profits if Federal authority to control oil prices is terminated on August 31.

The oil industry will make huge windfall profits if the Allocation Act is permitted to expire and price controls are terminated. This is a prime example of the administration's energy policy: Higher prices for the consumer and higher profits for the oil companies. The public interest is buried by a continuation of administration mismanagement,

bureaucratic indifference, and industry pressure.

These threats to the American consumer are real. They have emerged over the past few months because the agency designated by the Congress to monitor and regulate the oil industry—the Federal Energy Administration—has, by incompetence or inaction, permitted the oil industry to exercise its enormous market power to run roughshod over the interests of the consuming public by reducing gasoline supplies to drive up gasoline prices.

In response to these developments, Mr. President, I am undertaking an in-depth investigation of the oil industry and the FEA to find out why gasoline inventories have been permitted to fall to dangerously low levels over the past 4 months. What we must determine is whether, as now seems to be the case, the industry has been building up their stocks of crude oil, instead of refining it into gasoline and other needed products, because the industry knows that President Ford's policy will produce a crude oil inventory windfall profit of up to $2 billion if price controls are removed.

What has been happening? There is a puzzle here, but the pieces to it are relatively few in number:

First, abundant crude oil is available to all domestic refineries:

Second, a progressive and steep decline in the utilization of refinery capacity has caused curtailed production of gasoline;

Third, there has been a rapid drawdown of gasoline stocks to bare minimum levels just prior to the season of peak gasoline demand; and

Fourth, the price of gasoline has been rising sharply as evidence of impending shortages mounts.

1. BACKGROUND

A. GASOLINE PRODUCTION AND INVENTORIES DECLINE

The gasoline situation what is reflected in the statistics published by the American Petroleum Institute is both obvious and ominous. Over the past 5 months—since the announcement of the administration's energy tariff and price decontrol proposals—the rate at which crude oil has been run through U.S. refineries has dropped substantially. For 10 weeks prior to the President's state of the Union message domestic refinery utilization—total refinery runs as a percentage of available capacity—averaged just under 88 percent. In the weeks that followed utilization dropped steeply, and during the months of March, April, and May only 81 to 83 percent of available refining capacity was being used.

As a result, production of refined products dropped all across the board. Inventories of gasoline, which stood at over 240 million barrels in February, plummeted steeply—week by week—for over 4 months. Those inventories now stand at the lowest levels of the last 2 years—lower than during the embargo and virtually identical to the levels which accompanied the gasoline shortages of 1973. Although normal industry practice at this time of year is to increase refinery runs to increase gasoline production and to maintain gasoline stocks, precisely the opposite has occurred over the past 4 to 5 months.

B. INVENTORY PERIL POINT

Historically analysts familiar with the oil industry both in and out of Government have considered 195 million barrels of gasoline stocks to be the peril point: The minimum level the system can tolerate without the onset of spot shortages. In fact during the serious gasoline shortages of 1973 the lowest stock level recorded was approximately 198 million barrels. Current inventories stand at 199.8 million barrels. The difference between this level and the minimum of 195 million barrels represents slightly more than one-half day's consumption at current rates. Apparently the existence of the allocation program—which spreads available supplies evenly across the country—is currently the only thing preventing low inventories from producing gas lines and station closings right now.

Gasoline inventories have been traditionally used to accommodate the ebb and flow in demand. With production down and gasoline inventories at bottom, any surge in demand or any loss in refinery capacity could bring on serious spot shortages. Unless refinery utilization is substantially increased, these shortages could escalate into a major headache for the consumer and the American economy.

C. CRUDE OIL GLUT

Ironically, this situation occurs at a time when there is no shortage of crude oil. Although U.S. production continues to decline, U.S. crude oil stocks are at all-time high levels—284 million barrels—and these stocks have been maintained at high levels while gasoline inventories are declining. There is a virtual glut of crude oil on the world market. Worldwide excess producing capacity is at least 12 million barrels per day. U.S. imports have remained high. Yet refinery runs and gasoline inventories have been steadily declining week after week.

D. GASOLINE PRICE INCREASES

While gasoline inventories decline, gasoline prices are rising. Since November of 1974, the average price of gasoline nationally has risen by over 4 cents per gallon, despite the administration's claim that the first dollar tariff imposed by the President would cause increases of only 1.5 cents per gallon, and the impact of the second dollar has yet to be felt. As recent articles in the oil industry trade press clearly indicate, the current threat of shortages is already driving gasoline prices far higher—up approximately 5 cents per gallon on the spot market since May 1. Mr. President, I ask unanimous consent that an article on the "Impending Gasoline Crisis" which appeared in the June 20 Oil Daily and an excerpt from the Oil and Gas Journal Newsletter of June 23, 1975, be printed at the end of my remarks.

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

(See exhibits 1 and 2.)

2. ADMINISTRATION RESPONSE TO THE GASOLINE SHORTAGE

Mr. JACKSON. Mr. President, where has the Fedral Energy Administration been during the period that these trends were emerging? Mainly, the FEA has been arguing, in testimony before Congress and in speeches by FEA officials in all parts of the country, for the decontrol of oil prices and an end to the Petroleum Allocation Act. Although this situation has been building for the past 4 months, no comment and no action was taken by FEA on the sharp decline in refinery utilization or the precipitous drop in gasoline inventories until last week.

A. DISMANTLING WEEKLY ENERGY DATA COLLECTION

Not only has the FEA failed to monitor the oil industry effectively itself, it is now also failing to collect and make public the objective, accurate, and up-to-date data which would permit the Congress, independent analysis or members of the public to monitor industry operations themselves.

In March, the FEA terminated the weekly energy information series it had published domestic refinery operations. Since that time, the only public source of up-to-date information on oil supply and demand has been the American Petroleum Institute—the oil industry's Washington lobby. We cannot compare the API figures which reflect the impending shortage with FEA's data because no FEA data is available describing the months of April, May or June.

B. FEA'S AUTHORITY AND ATTITUDE

The FEA now says that gasoline shortages will be prevented. This claim is based on assurances given to FEA privately—over the telephone—by the oil companies. FEA makes this claim despite the admission of FEA Administrator, Frank Zarb, as quoted in the June 20 Washington Star News, that—

> He cannot explain why U.S. refineries have been operating at reduced capacity—cutting gasoline output—at a time when crude oil stocks are up 5 percent.

There has been no request by FEA for additional authority to deal with the situation. No alteration in FEA regulations has been proposed. No manadatory directives have been issued to refiners.

FEA has behaved as if it was blind, incompetent or indifferent—or all three—during the period this situation was building. FEA now intends to rely on the oil companies themselves to rectify the situation which they created.

Mr. President, I do not believe that the country can or should rely on FEA press releases or the private assurances of oil companies that there will not be a gasoline shortage this summer and that short gasoline supplies will not be used to drive up gasoline prices.

The facts on inventories and refinery runs show that gasoline shortages are a real possibility. The trend in rising gasoline prices—far beyond the impact of the President's tariff—which has accompanied the drop in supply is clear to anyone who looks at the data.

This situation is a textbook example of the fallacy of assuming that unregulated "market forces" in the petroleum industry will protect the interests of U.S. consumers. The petroleum industry is able to repeal the law of supply and demand because it controls the supply. The precise reason for the existence of

the Emergency Petroleum Allocation Act and the Federal Energy Administration is the necessity of monitoring and regulating the very natural drive of this industry to maximize its profits at the expense of the consuming public.

The Emergency Petroleum Allocation Act provides the President with all of the authority necessary to insure that gasoline shortages will not occur. What is lacking is the will in the administration and especially in the FEA, to use the act to insure that the public interest is not bulldozed once again by the oil industry.

C. REQUEST TO FEA FOR A FULL REPORT

I have written to the FEA demanding an explanation and a full report on the gasoline situation and what actions the administration proposes to take. The public has a right to demand that FEA be in a position to determine—on very short notice—

First, the reasons for the decline in gasoline inventories;

Second, the reason for the drop in refinery utilization, including a public accounting of who is reducing refinery runs and why;

Third, the measures which are needed to insure adequate gasoline supplies at reasonable prices;

Fourth, the reasons why the Congress and the public had to find out about this situation from the trade press and industry data and, apparently, bring it to FEA's attention; and

Fifth, the measures which are available to cope with gasoline or heating oil shortages if the Allocation Act is allowed to expire or its extension is vetoed as representatives of the Administration have threatened.

3. CAUSES OF THE SHORTAGE

Mr. President, we must go beyond a cataloging of the trends illustrated by the figures on refinery runs, inventory levels and pump prices to determine the reason and motivation which led to this dramatic and dangerous decline in gasoline availability, and a coincident rise in gasoline prices.

A. ECONOMIC AND REGULATORY FACTORS

A number of hypotheses have been offered to explain this situation. These explanations come from representatives of oil companies, from observers of the industry, and from Government analysts. Some of the reasons advanced assume the situation to be a result of responses by individual oil companies to market demand and/or Government regulation. These reasons include:

First, that consumer demand for gasoline is weak;

Second, that refinery profit margins are limited by Federal regulations;

Third, the operation of FEA's entitlements program; and

Fourth, that gasoline inventories are expensive to maintain.

I have serious reservations as to the adequacy of any of these hypothesis for explaining the current low levels of gasoline inventory.

Consumer demand has, in fact, been growing stronger not weaker over the past four months.

Profits in the oil industry are and have been for the past year at all time record levels.

The whole point of the FEA's entitlements program is to grant equal access to the benefits of low-priced crude oil to all refiners. If the regulations do not accomplish this they can and should be amended.

Finally, the industry has normally maintained gasoline inventories at levels millions of barrels higher than current stocks.

B. INDUSTRY MOTIVATION AND ADMINISTRATION ENERGY POLICY

There are other hypotheses, however, which involve serious questions concerning industry motivation and administration mismanagement of an essential component of domestic energy supply.

These allegations, if true, also raise very, very serious questions of public policy.

First, that the reduction in gasoline supply is a deliberate effort on the part of the industry to use scarcity to drive up the price of gasoline;

Second, that the President's import tariff, which raises the price of uncontrolled domestic oil as well as the price of imported oil, has encouraged the industry to acquire and hold the maximum amount of crude oil in inventory awaiting windfall profits which become available as each dollar of tariff is added; and

Third, that the oil industry is withholding supply in anticipation of termination of the mandatory allocation program on August 31. Expiration of the Allocation Act would, at one fell swoop, remove all Federal authority for equitable allocation of crude oil and refined products and all Federal authority to maintain price controls on domestic oil, or restrain further price increases on refined products such as gasoline. The administration is opposed to extension of the act, and representatives of the administration have threatened a Presidential veto if Congress votes such an extension.

Termination of the Allocation Act will trigger truly enormous windfall profits on each barrel of crude oil hoarded in inventory by the industry. Moreover, if the Allocation Act authority is terminated in a situation of severe gasoline shortages, the stage will be set for the consolidation of gasoline market position of the major oil refiners by the systematic squeezing of supply to the independent sector of the industry.

4. THE ADMINISTRATION TILT TOWARD INDUSTRY

A. GASOLINE DEMAND INELASTICITY

Mr. President, at the present consumption rates, the addition of a single cent to the price of gasoline generates nearly a billion dollars for the oil industry on an annual basis. The incentive for the oil industry to try every conceivable strategy to capture these revenues is enormously strong.

Those who guide the oil industry know that gasoline use is very inelastic with respect to short-term price increases. Our entire lifestyle—the way we get to work—those who still have jobs—our shopping patterns, the transportation of food and manufactured goods—all depend on abundant supplies of gasoline. Only very substantial increases in gasoline prices can change these patterns. And should this route to reduced consumption be chosen, the result would be enormously painful and the political repercussions immense. For this reason it is essential from the point of view of the oil industry to impose moderate increases in gasoline prices, but to impose them steadily. In fact, since the 1974–75 winter we have seen a slow but steady rise now totaling over 4 cents per gallon in the price of gasoline.

It is clear that administration policy has abetted energy price increases. The administration's whole philosophy of rationing energy supplies by price is based on the need for and desirability of making energy more expensive. This philosophy and the climate it creates cannot help but lead to higher prices.

B. ADMINISTRATION BIAS

However, I am afraid that the administration's consistent tilt toward the oil industry may now be having far more expensive and dangerous implications for the American consumer. At least four things are clear:

First, it is clear that the President's oil tariffs have encouraged gasoline price increases in excess of the simple pass through of added costs due to the tariff itself;

Second, it is obvious that each dollar of tariff added by the President increases the price of domestic, new, released and stripper oil and creates a short-term incentive to slow the refining of uncontrolled oil in anticipation of the windfall to be provided at each increase in the President's tariff; and

Third, it is apparent that the administration's opposition to extension of the Allocation Act, their repeated statements in favor of releasing all control over domestic oil prices and continued threat of a veto of congressional attempts to extend price control authority have created a real incentive for domestic producers to hoard crude oil. It is wholly predictable that some producers would gamble on the outcome of the contest between the Congress and the President over the extension of the Allocation Act beyond August 31. Inventories of crude oil are now at a near alltime high of 284 million barrels. It is probable that a high percentage of this crude oil inventory is "old" oil. If price controls on oil are removed, the value of this "old" oil inventory will increase overnight by $8 to $9 per barrel, depending on whether the President's third dollar of tariff is added before expiration of the act. There is potential windfall profits to the industry here in excess of $2 billion on these crude oil inventories alone.

Moreover, a short supply of gasoline when price controls and allocation authority terminate will result in an upward surge in gasoline prices. Because buyers will not have a right to an allocation, many independent marketers will be forced out of business by inability to obtain supplies.

These incentives created by administration policy account for both of the

effects observed in refinery statistics describing crude oil and gasoline stocks.

Finally, the present gasoline situation implies that FEA's monitoring and surveillance of the petroleum industry is either incompetent or enormously inefficient. An attempt to rectify this situation with promises of a few oil company presidents is simply not an appropriate response, particularly when the administration is systematically endorsing the industry's drive to extract even higher profits from consumers already burdened with high prices.

5. PRIORITIES

Mr. President, our first priority must be to turn around the trends which show that we are on the road to a shortage. There is time to accomplish this, but it will require leadership in the industry, in the administration, and in the Congress. And we must begin at once.

First, I call upon the President to direct the Federal Energy Administration to establish minimum stock and inventory levels for gasoline, heating oil, and other refined products.

The President has adequate authority in the Allocation Act to prevent overreaching and to require the oil industry to run their refineries at full capacity.

In addition, we must understand the reasons the present situation arose and move effectively and firmly to set up an incentive structure to prevent its reoccurrence. In no sense, however, is the Congress going to accept total deregulation of the oil industry as the "solution" to the problem of shortages.

It serves no purpose to ignore or attempt to wish away the tremendous impact on the domestic economy the petroleum price increases of 1973–74 have had. It makes even less sense to pretend that we can now afford the greater economic impact of decontrolling the domestic oil industry and permitting the same kind of price increases for domestic oil. Both the size and suddenness of the administration's crude oil decontrol proposals make them totally unacceptable.

There have been reports in the trade press that some industry spokesmen attribute the decline in gasoline stocks to price controls and profit margin limitations. There is a curious parallel between these statements and the all-out effort now underway by the administration and the oil companies to prevent any extension of price control and allocation authority and to deregulate natural gas prices.

The actions of the industry and the inaction of the FEA do not constitute blackmail, but they clearly appear to be designed to build support for decontrol of oil prices. They are yet another example that this administration seems far more interested in winning the favor of oil companies than it is protecting the public.

The solution is not to give in and grant the oil industry new "incentives" in the form of permission to charge OPEC cartel prices for all domestic oil. Nor will an acceptable and equitable solution involve elimination of these Federal regulations designed to preserve and maintain competition in the petroleum industry and based on an overwhelming congressional mandate.

We would be foolish to relinquish control over our energy prices to the managers of the OPEC cartel, and we would be doubly foolish to permit the conditions created by the cartel's monopoly power over world oil to force the domestic oil industry to an even greater degree of market power concentration than now prevails. The solution will lie in regulation. If the current law and regulations are inadequate, they should be improved. But we must work within a regulatory framework, and the sooner the administration and the oil industry accepts this, the quicker real progress in energy policy can be made.

EXHIBIT 1

IMPENDING GASOLINE CRISIS?

(By Jim Drummond and Roxy Cuddy)

HOUSTON.—A rapid rise in the Gulf coast spot cargo market for gasoline became a rush Thursday after fresh reports of refinery curtailments and planned curtailments, including the shutdown of a newly expanded 150,000 barrels daily Pennsylvania plant.

Oil Daily raised its cargo range for regular grade motor fuel to 34.50–36.00 cents a gallon from 33.00–34.00 cents amid reports at least two deals had been consummated at 36.50 cents. The May 1 quotation was 28.25–28.75 cents.

Offers to sell, few and far between, were reported at figures as high as 37 cents a gallon for July delivery and 37.25 cents for no-lead. There were unconfirmed reports that gasoline arriving on the West Coast had been bought for 40 cents a gallon at some domestic point—whether at the Gulf or elsewhere was unclear.

The distillate market also was firming despite its abundant supplies, with Oil Daily's Gulf coast cargo quotations rising to 26.75–27.25 cents a gallon from 26.50–27.00. Traders advanced these reasons:

Crude oil costs are escalating, partly in anticipation of higher products price cost pass-throughs based on President Ford's second dollar a barrel of oil imports excise tax.

Utilities, which have installed history's largest amount of storage, have used up most of the high priced fuel oil obtained during last year's supply pinch and are beginning to buy more.

Distributors are stocking up on the premise that you can't bet on two mild winters in a row.

Biggest new refinery casualty occurred at Marcus Hook, Pa., where BP Oil Inc. wholly owned subsidiary of Standard Oil Co. of Ohio, shut down all gasoline production at a newly expanded 150,000 barrels daily plant (up from 105,000 b/d) when a bulky catalytic reformer finally required major surgery.

A BP advisory which reached dealers through company marketing channels last weekend indicated there might be supply trouble ahead. It came Monday when refinery crewmen started tearing down the reformer, BP dropped its marketing allocation to 60% of the adjusted base period level from 130%.

Charles H. King, BP's marketing vice president, said the refinery had been carrying low motor fuel inventories because of interruptions where the reformer was having catalyst recirculation problems. ("The catalyst wasn't going to the bottom of the unit," said another spokesman. "Sometimes it would burn, however, and unplug itself.")

King thought some runouts might occur in BP and William Penn service stations (supplied by BP) in major marketing areas. He said various retail units might have to "redistribute" their operating hours or close temporarily. The company's retail territory extends from New England down the eastern seaboard to Virginia.

The Marcus Hook plant is expected to be operating normally again in about two weeks. Meantime, BP is asking the Federal Energy Administration to help by permitting it to use some of the product it has contributed to state set-asides, held for emergencies.

There was no immediate estimate how much gasoline production is being lost at Marcus Hook. Best horseback guess among marketers is 50,000 to 75,000 b/d.

The amount of gasoline output curtailed, if any, at two other refineries which have lowered runs recently was an even bigger question mark.

Kyso's 240,000 b/d Pasagoula, Miss., refinery has shut down one of two crude units for modification so it can start running Arabian oil. The changeover is expected to be complete by Sept. 1, when rated plant capacity will rise to 280,000 b/d and the crude mix will be about 50% Arabian.

However, a Kyso spokesman said the refinery, by planning ahead, had accumulated enough products components to continue turning out a close-to-capacity flow. Asked about a report downtime had been extended by difficulty in getting parts, he said forward planning had taken long parts delivery lead times into consideration, so no trouble resulted.

Atlantic Richfield's 185,000 b/d refinery again was running 130,000 b/d of crude, same as before a just-completed turnaround, a spokesman said. A reformer went back on stream Wednesday after being down 20 days.

Products distribution didn't suffer, the Arco man reported, the company having been able to draw down previously heavy inventories.

Champlin Refining was said to plan a routine turnaround at its 65,000 b/d Corpus Christi, Tex., refinery starting July 1. The estimated downturn in gasoline production for the duration is 20,000 to 25,000 b/d.

Oil Daily previously reported a minor fire and maintenance requirement which forced shutdown of the 180,000 b/d refinery of Gulf Oil Co.-U.S. at Alliance, La., south of New Orleans. It's due back on stream June 20 or 21.

A fire also knocked out two or three days production by Sohio's Lima's O., plant, and Crown Central Petroleum's Passadena, Tex., plant was resuming normal products production after a month's outage.

No one seemed to have any viable estimate of the gasoline not manufactured in recent weeks because of refinery problems. However, an independent marketer who compared American Petroleum Institute refinery production figures with API's weekly statistics on U.S. gasoline inventories came up with a startling conclusion:

Consumption has been outstripping output by more than 500,000 b/d in the last four or five weeks.

"I'm afraid outsized demand is going to be the unpleasant surprise when we get around to clocking it," he said. "The amount may be a shocker.

"You can get some clues already. Just drive along the Houston-Dallas freeway and look at all the traffic."

EXHIBIT 2

GASOLINE SUPPLY

U.S. gasoline market is tightening up fast. Demand of 6,972,000 over last 4 weeks is highest since Sept. 13, 1974. Refinery output of the fuel of 6,466,000 represents a decline running since first of the year. Stocks, as a result, are now down to 199,842,000 bbl, lowest since Aug. 24, 1973.

DETERMINATION OF SENATE ELECTION IN NEW HAMPSHIRE

The Senate continued with the consideration of the resolution (S. Res. 166) relating to the determination of the contested election for a seat in the U.S. Senate from the State of New Hampshire.

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

The PRESIDING OFFICER (Mr. BAKER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. PELL. Mr. President, there has been a good deal of discussion about credentials in the course of this debate on Messrs. Durkin and Wyman and the question has arisen as to which set of credentials should be honored when two candidates appear each with a set of credentials certified and then that set of credentials is changed by the same certifying authority.

I would like to have printed in the RECORD the citation from a case that occurred in my own State of Rhode Island, Elisha R. Potter against Asher Robbins.

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

[Twenty-third Congress, First Session]

ELISHA R. POTTER v. ASHER ROBBINS OF RHODE ISLAND

[Citations: S. Jour., 23d Cong., 1st sess., 1833–1834, pp. 5, 35, 166, 285, 300, 313, 314, 328, 329, 340; S. Docs. No. 139 (majority) and 246 (minority), 23d Cong., 1st sess.; Cong. Debates, vol. 10, pt. 1, 1833–1834, pp. 2–11, 13–14, 19, 804–807, 1229–1230, 1252–1257, pt. 2, pp. 1813, 2021, 2037–2038; Cong. Globe, 23d Cong., 1st sess., pp. 1, 13, 127, 214, 215, 282, 283, 287, 289, 301, 405, 436, 464, 468; Hinds' Precedents, vol. I, § 627; S. Doc. No. 1036, 62d Cong., 3d sess., p. 179]

Statement of the Case: On January 19, 1833, Asher Robbins was elected Senator by the Rhode Island Legislature for a 6-year term beginning March 4, 1833. On January 28, 1833, the Governor issued his certificate which was presented to the Senate on February 4, 1833, and entered on the Journal. Robbins failed to appear to qualify and the State legislature at a new session convened on the last Monday of October, declared Robbins' election "null and void and of no effect" and the office vacated. On November 1, 1833, the legislature elected Elisha R. Potter and on November 5, 1933, a new Governor issued a certificate to Potter. On December 2, 1833, when a new session of Congress convened, Potter's credentials were laid before the Senate.

Question of prima facie right: Conflicting credentials, each regular in form, being presented at different times, those (of Robbins) first issued and presented were honored after the circumstances had been examined. A motion that the oath be administered to Robbins was agreed to on December 2, 1833. The Senate by a vote of 19 to 15 refused to refer the motion to seat Robbins to a select Committee.

Question of final right: (1) Was the commission of Robbins made and executed in conformity with the provisions of the United States Constitution and the laws and usages of Rhode Island prescribing the time, place, and manner of choosing Senators? (2) Was Robbins, at the time of his election, eligible, according to the United States Constitution to the office of Senator? (3) Was he chosen by the legislature of the State? The committee reported that if these questions be answered affirmatively, it is unnecessary to inquire into the validity of the subsequent election of Potter.

The right of the minority to make a report and whether a minority report should be responsible to the majority report were debated.

Decision of the Senate: Where conflicting credentials, each regular in form, are presented, those first presented will be honored and the person named therein seated and the credentials of the contestant be referred to a select committee; but the motion to seat the Member will not be referred to a committee. The Senate by resolution on May 27, 1834, as recommended by the majority report of the committee, declared Robbins to be entitled to the seat. Vote: yes, 27; nays, 16.

Potter was by a special appropriation paid the compensation of mileage and the per diem allowance of a Member of Congress for the time he actually attended at Washington during the contest.

Mr. PELL. This was a Senate decision in the 1830's—a little while ago—but the decision of the Senate was:

Where conflicting credentials, each regular in form, are presented, those first presented will be honored and the person named therein seated and the credentials of the contestant be referred to a select committee; but the motion to seat the Member will not be referred to a committee.

Mr. Robbins was chosen first and issued a certificate, but failed to appear to qualify. Elisha Potter was chosen later, but Robbins was seated.

In other words, the credentials first presented were honored.

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

Mr. GRIFFIN. Would the Senator from Rhode Island give me the date of that?

Mr. PELL. Absolutely. The case occurred in 1833, I do not have the specific date here.

Mr. GRIFFIN. That is enough, 1833, it will give me a chance to check it out. I appreciate that.

Mr. PELL. Very well.

Mr. GRIFFIN. I think there is an answer to it and we will provide it.

Mr. PELL. I thank the Senator.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that without prejudice to the pending business the Senate go into executive session to consider nominations under New Reports.

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

The PRESIDING OFFICER. The nomination will be stated.

CIVIL SERVICE COMMISSION

The assistant legislative clerk read the nomination of L. J. Andolsek, of Maryland, to be a Civil Service Commissioner.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

FEDERAL RESERVE SYSTEM

The assistant legislative clerk read the nomination of Philip C. Jackson, Jr., of Alabama, to be a member of the Board of Governors.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

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

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business and the pending business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

ORDER FOR RECOGNITION OF SENATOR LEAHY AND SENATOR MONDALE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow after the two leaders or their designees have been recognized under the standing order, and after the consummation of any other orders that previously have been entered, Mr. LEAHY and Mr. MONDALE be recognized, each for not to exceed 15 minutes, and in that order.

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

DETERMINATION OF SENATE ELECTION IN NEW HAMPSHIRE

The Senate continued with the consideration of the resolution (S. Res. 166) relating to the determination of the contested election for a seat in the U.S. Senate from the State of New Hampshire.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, if I may have the attention of the distinguished Senator from Alabama and the distinguished Senator from Michigan, who I understood were the interested parties, I ask unanimous consent that the vote on the pending amendment occur at the hour of 4:30 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Reserving the right to object, Mr. President——

Mr. MANSFIELD. I had understood the request had been made before, and

the Senator from Michigan wanted time to think about it.

Mr. HUGH SCOTT. Mr. President, we are talking with various people about it. I think we can vote around 4:30, but I would rather not make a time agreement. We have some who will not agree to that. But if the Senators will be here at 4:30, I think it would be a pretty safe prediction that we will be voting.

Mr. ALLEN. Reserving the right to object, and I shall not object, because I want to vote on all of these amendments, and certainly I want to vote on my own amendment, I believe the situation has changed somewhat since the matter was under discussion before. Is the amendment the Senator speaks of the Scott amendment to division 1 of the Allen amendment?

Mr. HUGH SCOTT. This is the Scott-Griffin amendment to retrieve all of the ballots, which is an amendment to the Allen amendment.

Mr. ALLEN. It seeks to amend item 1 of my amendment, 605.

Mr. HUGH SCOTT. Yes. It seeks to amend the first part of the amendment of the Senator from Alabama.

Mr. ALLEN. I have no objection to the time limit.

Mr. HUGH SCOTT. I do not think there are any objections on our side to voting at 4:30. We just want to avoid a time agreement because there are two or three people we have not directly consulted. But I think we can be satisfied.

Mr. ALLEN. Might we then agree to vote on item 1 of my amendment following that?

Mr. MANSFIELD. Following that, yes. I will yield to the Senator from California.

Mr. CRANSTON. We were discussing the time on Senator ALLEN's amendment at the time we had the discussion. If we can reach a time agreement on his amendment, that would be fine.

Mr. ALLEN. I would not insist, but I hope it can be arranged.

Mr. HUGH SCOTT. I hope we can consult on that right after the vote on the Scott-Griffin amendment.

Mr. ALLEN. I believe it is the one amendment that would have a chance of breaking the logjam here in the Senate on this resolution.

Mr. MANSFIELD. Is there not an Allen amendment to the Scott-Griffin amendment?

Mr. ALLEN. No, sir.

Mr. CRANSTON. It is vice versa.

Mr. HUGH SCOTT. It is the Scott-Griffin amendment to the Allen amendment.

Mr. GRIFFIN. I believe the Senator will agree that if the Scott-Griffin amendment should be adopted, the Allen amendment would be moot.

Mr. ALLEN. Yes, of course. If it is adopted, the Scott-Griffin amendment would be substituted for it, yes.

Mr. GRIFFIN. Of course, it is our hope, if not our expectation, that the Scott amendment will be adopted.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. GRIFFIN. The unanimous-consent request is that the vote will occur on the Scott amendment at 4:30; is that correct?

The PRESIDING OFFICER. Will the Senator from Montana restate his request?

Mr. MANSFIELD. Any amendment, whatever is pending.

The PRESIDING OFFICER. It is the Chair's impression that the request would provide for a vote at 4:30 on the pending question?

Mr. MANSFIELD. That is correct.

Mr. McCLURE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. What is the pending question?

The PRESIDING OFFICER. The pending question is the Griffin-Scott amendment to division 1 of the Allen amendment, which is at the desk and carries No. 605, as modified.

Mr. McCLURE. I thank the Chair.

Mr. GRIFFIN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER The yeas and nays have not been ordered.

Mr. MANSFIELD. Has the request been granted?

The PRESIDING OFFICER. The unanimous-consent request is still pending. Is there objection?

Mr. CRANSTON. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CRANSTON. Are amendments in order to the Scott-Griffin amendment?

The PRESIDING OFFICER. It is in the second degree. Amendments would not be in order.

Mr. HUGH SCOTT. I ask for the yeas and nays, Mr. President.

Mr. MANSFIELD. What about the unanimous-consent request?

The PRESIDING OFFICER. That is still pending. The request for the yeas and nays is in order notwithstanding the unanimous-consent request pending.

Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

The Chair hears none, and it is so ordered.

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

Mr. McCLURE. Will the Senator withhold that?

Mr. GRIFFIN. I withhold that.

Mr. McCLURE. I would like to address a question to the Senator from Alabama concerning his amendment 605, as modified, division 1.

As I read that, it requires that the Rules Committee retrieve from the 180,000 or 200,000 ballots an equal number of "skip-Durkin" ballots. That would be 11 more than are now before the committee.

Mr. ALLEN. Yes; it being 11 because there are 12 "skip-Wyman" ballots and one "skip-Durkin" ballot before the committee and the Senate.

Mr. McCLURE. And the amendment further requires that the skip-candidate votes be considered by the committee.

Mr. ALLEN. That is correct. It does not direct the committee as to how to rule with respect to those ballots, but it would assume, I assume, that the committee would apply the same uniform standard to the decision. If it recognized any of the ballots, it would recognize all of them, and if they turned down some of them, they would turn down all of them.

Mr. McCLURE. The Senator very appropriately anticipated my question. The amendment does not require the committee to rule on all of them in the same fashion.

Mr. ALLEN. It does not, but that would be a fair assumption, that they would. I would have confidence that the Rules Committee would apply exactly the same standard to similar ballots.

Mr. McCLURE. Would the Senator agree also that if the Senate were to adopt the amendment which he has suggested, that this would render moot any of the questions with respect to whether or not protests were filed in a timely manner?

Mr. ALLEN. It would.

Mr. McCLURE. At least so far as these 24 ballots might be concerned.

Mr. ALLEN. That is correct.

Mr. McCLURE. I thank the Senator for yielding and answering these questions. I think it is important that we have an understanding at this point of what it is that the Senator from Alabama has in mind with regard to the action of the Rules Committee if they have these 24 ballots before them. There is nothing on the face of the amendment which would require the committee to apply the same judgment to all 24 ballots.

Mr. ALLEN. Yes; I might state that the Scott-Griffin amendment that sought to be substituted for 605 is a situation of overkill and would open up the door for still another question. It might conceivably have 400 or 500 additional ballots with this question still unanswered. It would be conceivable for the Rules Committee to misapply New Hampshire law and, in effect, award the election to that candidate that had fewer skip ballots counted for him. I feel that the Scott-Griffin amendment is unwise because it would bring in an entirely new question and create more problems, more complexities, and it would supposedly accomplish the same thing, which would be to count all ballots of a "skip-candidate" nature for the candidate alleged to have been skipped under a straight party ticket vote.

Mr. McCLURE. It would be the understanding of the Senator from Idaho that all of the ballots of the skip type have now been counted for the candidates, with the exception of the 13 that are pending before the committee. Is that the understanding of the Senator from Alabama?

Mr. ALLEN. That is correct. It is not only my understanding, but the exact fact.

Mr. McCLURE. That does not raise the

issue of ballots in which there is a skip but also some other marking on the ballot which might be some evidence. This refers only to those where a skip ballot is involved?

Mr. ALLEN. Yes.

Mr. McCLURE. Where one, two, three, or more individual boxes were not marked?

Mr. ALLEN. Yes.

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

Mr. ALLEN. I yield.

Mr. CANNON. While the Senator is here, and as a followup, I would like to pursue that matter a little further.

As the Senator knows, the so-called skip ballots are not all in the same category. Some of them skip one candidate only. Some of them skip more than one candidate, but with other evidence.

What does the Senator envision with respect to retrieving other ballots, if there are any? Does he envision that all ballots would be retrieved that had an X in the circle, and then had any other mark on the candidate list, or would he envision that only those that had the mark in the circle and had only one candidate skipped would be retrieved?

Mr. ALLEN. I think that would be something—I do not think it is necessary for the Senate to give the Rules Committee specific guidelines in the minutest of details. I think that would be an area for the Rules Committee to decide.

My notion of what would be fair would be, since there are supposed to be several hundred of these ballots in the 185,000, to as nearly as possible choose ballots of exactly the same circumstances that the Rules Committee now has.

Mr. CANNON. So that those 11 ballots would coincide as nearly as possible with the ballots that are retrieved?

Mr. ALLEN. That is correct. So that the Rules Committee would be determining exactly the same question in passing on these 24 ballots.

Mr. CANNON. Would the Senator consider, at the proper time, a possible modification of his amendment to direct that these ballots be retrieved, let us say, by an impartial panel, to avoid any tieup in the Rules Committee?

Mr. ALLEN. I think our Riddick panel would certainly be satisfactory. I would have absolutely no objection to any group. I would be glad to have any panel that the Senator would suggest. But there again, that would be up to the Rules Committee, I believe. I think the Senate would certainly trust its Rules Committee to come up with something fair on that. I do not believe we would have any trouble.

But as far as such a modification is concerned, surely, I would be glad to entertain that.

Mr. CANNON. One of the so-called skip-Louie ballots here is one in which the X was put in Mr. Wyman's box, and then later erased. Does the Senator anticipate that we would try to find a similar one on Durkin? If we could not find a similar one, what does the Senator envision would be done there as an offset ballot?

Mr. ALLEN. Well, I think whether it is one, two, or three, recognizing that a skip of two is a weaker argument for it being a skip ballot than just one skip, I think the central question is the same: Is the vote to be withheld from a candidate where the box opposite his name did not contain an X, even though the circle under the party emblem did have a cross?

I think the point is exactly the same. I think these other circumstances are just matters of detail. But I would have no objection to trying to match them up.

Mr. CANNON. Finding one to offset that had an X in the same place, if possible?

Mr. ALLEN. If possible, yes.

Mr. CANNON. What does the Senator propose the outcome would be in the event that the panel, if his amendment is adopted, were unable to find 11 comparable "skip-Durkin" ballots?

Mr. ALLEN. Well, I think the situation would exist, then, that the Rules Committee would have before it, certainly, the 13 ballots it has now, and if they had only 5 more found, it would have those, and it would rule any way that it wanted to on those, and it is still not decisive; we would still have the individual votes on these ballots later on.

I do not think we would throw it out. I would think if there are not at least 11 there, I would say that the statements made before the Rules Committee to the effect that there are hundreds there would have been proved to be inaccurate.

Mr. CANNON. I thank the Senator.

Mr. ALLEN. I thank the distinguished Senator from Nevada.

COMMENDATION TO THE INTERNATIONAL LADIES' GARMENT WORKERS' UNION ON ITS 75TH ANNIVERSARY

Mr. WILLIAMS. Mr. President, I send to the desk a resolution and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 194) to commend the International Ladies' Garment Workers' Union on its 75th anniversary.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

Mr. WILLIAMS. Mr. President, the resolution I have offered for myself, the Senator from New York (Mr. JAVITS), and the Senator from Rhode Island (Mr. PELL), commends and congratulates the International Ladies' Garment Workers' Union, one of the best known and most outstanding labor organizations, on the occasion of the observance of its 75th anniversary.

The ILGWU was founded on June 3, 1900, and on June 23 of that year, it received its charter from the American Federation of Labor.

In its 75-year history, the ILGWU has won worldwide recognition as a pioneer and champion of wholesome working conditions for its members. Its successful crusade to bring safety, sanitation, and healthy conditions to an industry long plagued by the sweatshop is one of the brightest periods of labor history. Its industrial statesmanship and visionary approach to employer-employee relations helped stabilize an industry once torn by constant conflict.

But the contributions of the ILGWU have not been confined to its members and its industry. In 1909, the union began its own campaign for women's rights in both the economic and political worlds. It has come to the aid of the unfortunate everywhere, working for better medical care, housing, education, care of the aged, scholarships for the young, and recreational activities to enrich the lives of people of all ages. Their beneficiaries have been the victims of poverty, discrimination, tyranny, disease, warfare, and natural disasters.

The ILGWU has won plaudits for its policy of open membership, welcoming into full participation peoples of all religions, races, and nationalities.

For these reasons and many others, Mr. President, I believe it is fitting that the Senate confer its commendations and congratulations on the International Ladies' Garment Workers' Union in commemoration of its 75 years of continuous progress toward the goal of a better life for all.

Mr. JAVITS. Mr. President, I am pleased to join with my colleague from New Jersey (Mr. WILLIAMS) and others in presenting a Senate Resolution commending and congratulating the International Ladies' Garment Workers' Union on the occasion of its 75th anniversary.

When the union was founded on June 23, 1900, conditions of employment in the manufacturing of women's clothing were among the worst for any employees in any industry in this Nation. In its 75-year history, the ILGWU has constantly striven—and successfully to improve the social and economic welfare of its members. The efforts of the ILGWU are primarily responsible for ending sweatshop conditions which employees in the so-called needle trades were, for far too long, forced to endure. A major achievement of the ILGWU has been the stabilization of labor-management relations in an industry with a history of strife and unrest.

In addition to these traditional trade union goals, the ILGWU has been also a pioneer in demonstrating its awareness of the social needs of its members, and of the community at large. It was among the first unions to recognize that its responsibilities extended into such areas as education, health care, and recreation for its members and it has been a leading factor in helping its members.

The ILGWU also stands as an example of a trade union that has welcomed into the ranks of its membership any and all persons, without regard to religion, race, ethnic origin, or sex.

It is, therefore, highly appropriate that the Senate offer its commendation and congratulations to this great trade union on the occasion of its 75th anniversary, in recognition of its service to

its membership, the communities it serves, and the cause of industrial peace.

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

The resolution (S. Res. 194) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 194

Whereas, the International Ladies' Garment Workers' Union was founded on June 3, 1900, and

Whereas, in the ensuing 75 years, this union has achieved world renown as a pioneer of safe, sanitary, and humane conditions of work, achieving its goals through industrial statesmanship and a new vision of employer-employee relationships, and

Whereas, it has come to the aid of the unfortunate everywhere who were victims of poverty, discrimination, tyranny, disease, warfare, and natural disasters and has opened new vistas in medical care, housing education, sports and other leisure activities, care of the aged, and scholarships for youth, and

Whereas, it has promoted the right of women in both the economic and political worlds and welcomed into full membership peoples of all religions and all races from many lands, and

Whereas, the International Ladies' Garment Workers' Union received its charter from the American Federation of Labor on June 23, 1900: Now, therefore, be it

Resolved, That the Senate hereby commends and congratulates the International Ladies' Garment Workers' Union for its multitude of contributions to the well-being of its members and of all peoples on the occasion of the observance of its 75th anniversary.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of the Senate be instructed to send a copy of the resolution to the executive board of the International Ladies' Garment Workers' Union.

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

DETERMINATION OF SENATE ELECTION IN NEW HAMPSHIRE

The Senate continued with the consideration of the resolution (S. Res. 166) relating to the determination of the contested election for a seat in the U.S. Senate from the State of New Hampshire.

Mr. HUGH SCOTT. Mr. President, if the Senator from Alabama will yield, on the matter of the panel——

Mr. ALLEN. Yes.

Mr. HUGH SCOTT. I would hope that if this goes to the Rules Committee in that form, whatever panel we set up would not consist of the majority counsel presiding and overruling the minority counsel. It would require a three-member panel and, therefore, I would hope we would reserve the right to discuss what kind of a tally group we would select.

I still prefer my way of doing this, so that all the Wyman protests would be considered as well as all the Durkin protests, but I would think at a minimum the very least we can do is to treat the same member with equal fairness.

I would like to stress also that this is only one issue. Lest Senators think this settles the whole question, it does not. It settles one of the 35 issues. There are some other ballots and situations where we want the most careful examination.

But I take it that the Senator is not tying himself into any form of panel, but leaving that matter open to conclusion as to how we could get one which would retrieve the requisite number of ballots, and then the committee would determine what standard would be applied in tallying them.

Mr. ALLEN. No. The Senator from Alabama is not talking about locking in his position on the Rules Committee. But he does not feel there would be a great deal of difficulty treating on this almost ministerial t_xt. I do not believe we will have any difficulty.

I might ask the distinguished Senator from Pennsylvania who would retrieve these supposed several hundred ballots under the Senator's amendment. There are only 11 ballots that have to be retrieved under the amendment of the Senator from Alabama and a potential several hundred under the amendment of the Senator from Pennsylvania.

Mr. HUGH SCOTT. It is my thought they would also have to be retrieved by a panel designated by the Rules Committee.

Mr. ALLEN. The Senator from Alabama would agree to the same panel that the distinguished Senator from Pennsylvania would have on his amendment if either of them were agreed to.

Mr. HUGH SCOTT. I thank the Senator.

Mr. ALLEN. I thank the Senator.

Mr. HUGH SCOTT. 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. BARTLETT. 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. BARTLETT. Mr. President, will the Senator from Alabama take the floor and engage in a dialog?

Mr. ALLEN. Yes, I am delighted to.

Mr. BARTLETT. It seems to the Senator from Oklahoma that a vote for his amendment would be indicating an opinion that the Rules Committee did not rule correctly in ruling that the skipped Wyman votes not count for Mr. Wyman. Would that be correct?

Mr. ALLEN. That is one possible assumption. The other assumption would be that the Rules Committee may have taken the position that this protest under the charter that the Rules Committee sets for itself of considering any protest that might be filed at any stage of the proceeding was merely allowing Mr. Wyman to protest the same number of skipped candidate ballots that Mr. Durkin had been allowed to protest. That is another possible assumption.

Mr. BARTLETT. Regardless of who challenged which ballots, should not the charge of the Senate be to determine the winner if we are in fact going to count the ballots?

Mr. ALLEN. I did not quite understand the Senator.

Mr. BARTLETT. Should we be restricted just by challenges that have been made or should we count all the ballots consistently?

Mr. ALLEN. I think that that is an exercise in futility to count all of them because the Senator from Oklahoma takes the position that all of these skipped-candidate ballots should be counted for the candidate in the straight-ticket column, even though no cross was made in the small box opposite his name. Assuming that and knowing that all of the skipped-candidate ballots have been so counted at the secretary of state level and the ballot law commission level, what is the need, then, of bringing several hundred ballots in before the Rules Committee and counting them again like they had been counted before? That is the fallacy in the agrument or the question of the distinguished Senator from Oklahoma, and that is the reason that it should be limited to the offsetting number and put both candidates on the same basis and have the same decision made, whether it be to allow the ballots or disallow the ballots, with respect to all of the ballots.

Mr. BARTLETT. The Senator from Oklahoma was not trying to get into the issue of counting all the ballots, so I am sorry I led in that direction, but I was advancing this thinking that if a person would think that the Rules Committee was right in their judgment in disallowing the "skip-Wyman" ballots to be counted for Mr. Wyman, if they thought they were wrong, they could support the Senator's amendment and erase that wrong action; on the other hand, if they thought they were right and that the "skip-Wyman" ballots should not be counted, then to be consistent they should count all the "skip-Durkin" ballots and remove those that would properly qualify as "skip-Durkin" ballots. It seems to me the amendment of the Senator has the effect of first being based on an action that I consider to be inconsistent with the laws of New Hampshire; second, one in which Mr. Wyman is the only one taking any gamble, and he is taking the gamble that there may not be as many as 11 "skip-Durkin" ballots; and third, he is suffering from the fact that a decision to disallow "skip-candidate" ballots is only being carried up to the limit of the 11 additional "skip-Durkin" ballots on top of the one that already has been counted.

Mr. ALLEN. The Senator says that the Wyman side would be taking the risk under the amendment of the Senator from Alabama, because there might not be 11 "skip-Durkin" ballots in the 185,000. That same risk would be involved under the Scott-Griffin amendment because, if there are not that many there, we know there are 13 "skip-candidate" ballots before the Rules Committee, and the same risk would be involved there.

I might say, further, that the Senate turned down the Brock amendment, which would have sought to count all of the "skip-candidate" ballots before the Senate for the candidate in the column headed by the straight ticket party.

Mr. BARTLETT. The Senator from

Oklahoma would be of the opinion that our goal was not to just offset one series of errors by the Rules Committee with a similar number of votes and series of errors by our action, but would be to properly answer the question of the "skip-candidate" ballot and then be consistent with all "skip-candidate" ballots following that decision.

Mr. ALLEN. Very well. But why draw in a bushel basket of ballots of a "skip-candidate" nature and then say, "Well, all of these are to be counted, I would like to count them before the Secretary of State, I would like to count them before the ballot law commission."? Why is not that an exercise in futility? If we do not count them that way, then if we go the other route of, as the Senator would say, misapplying the New Hampshire law, then we would let the election be decided on the basis of the candidate who had the fewer "skip-candidate" ballots cast regarding him.

So either way, one being just OK, what has been done down in New Hampshire and the other alternative and the other phase to the Scott-Griffin amendment, would be to decide the whole election under a misconception and a misapprehension of what New Hampshire law is. Either one of the routes that have to be followed under Scott-Griffin would not be a logical pursuit in the opinion of the Senator from Alabama.

Mr. BARTLETT. It seems that the Scott-Griffin amendment is a logical amendment to adopt if the "skip-candidate" ballots are not going to be counted. If the New Hampshire law is going to be followed, because the inconsistency is important, of course, then we would not have this issue.

I believe that to try to create a washout, with one more series of 11 wrongly counted votes, has some very questionable aspects. This was the aspect of this matter that I wanted to explore with my very good friend, a person I admire very much, the distinguished Senator from Alabama. I thank him very much. I do have some concern about his amendment.

Mr. ALLEN. I have some concern about the substitute. I believe it is an exercise in futility. I do not believe anything can be accomplished under it that is not more easily accomplished under the amendment I offer. That is for the Senate to decide. I thank the distinguished Senator.

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

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I should like to address some questions to the distinguished Senator from Nevada.

I understand that the distinguished Senator from Nevada has objected to the amendment now under consideration on the basis that Mr. Wyman has, in effect, foreclosed any reopening of the ballots as a whole, because he had limited his challenges to a given number. Is that correct?

Mr. CANNON. Well, no, the Senator is not correct on any one of the premises that he made there.

Mr. BUCKLEY. I seek education.

Mr. CANNON. I have not objected to it. I intend to oppose it, I intend to vote against it, for a variety of reasons. If for no other reason, I would oppose it at this time on the ground that it is completely premature, because the Senate itself has not determined the tie-vote issues on the so-called skip types of ballots, and I think it would be premature to do anything about going and retrieving other ballots until such time as the Senate made a determination as to what it wanted to do on the so-called skip-candidate ballots.

In other words, there are about three different categories of the "skip" type ballots, and if the Senate voted what it was of a mind to do—for example, let us say the Senate were to vote that all of those should be counted for Mr. Wyman. Then it would be nonsense for us to go back and try to retrieve any additional ballots in any way, shape, or form, because the whole argument is that you need to retrieve all "skip" ballots based on a fear of what the Senate is likely to do. So I just say I would consider it premature in any event irrespective of anything else that happens.

Then if we go beyond that, I would say this to my colleague, that I do not know whether he has ever participated in a recount, but I have. When a person makes a protest or a challenge to a ballot in a recount, the other side, if they have smart lawyers, immediately makes a defensive type challenge to all of the same kind of ballots, because they do not want to get caught short. That is what Mr. Wyman is arguing here or the minority is arguing, that he is going to get caught short, because he did not protest it. In fact, he gave his people instructions that they should not protest that type of ballot. Well, it is rather interesting to note that those instructions were dated back in 1964, some 10 years before the particular election. They bear the date on it, it is on the bottom of the instruction sheet, as the Senator will note.

But in any event they did protest one of those. Now, whether there were more or not I have no way of knowing, but I would say, as a candidate who has gone through a recount, I myself and my people would have protested everything that the other side was protesting, and I think that is borne out by the fact that of the 3,500 ballots the parties protested on election night—not on election night but on the recount—only 400 of those were presented for ruling at the ballot law commission.

Then, these same 3,500 were brought down here and the parties went through them again and, in going through them again, they came up with a few more than the 400 at this time, but they waived any protests that they had on all except 900-odd that they presented to the committee.

Mr. BUCKLEY. Mr. President, I thank the Senator for the clarification. It does, in effect, support the point I was generally making in that there has been an argument of waiver, of estoppel, of failure to identify and, therefore, it is inappropriate to go into the other ballots at this time.

Mr. President, I was seeking clarification here for a very important reason. I believe the theory on the basis of which the distinguished chairman has been proceeding is that it is up to the Senate, as a matter of constitutional duty, to determine what was, in fact, the will of the people of New Hampshire, and it is for this reason——

Mr. CANNON. As expressed at the polls, yes.

Mr. BUCKLEY. That is right, as expressed at the polls. And it is for this reason that the chairman argues that the Senate is not bound by the clear law of the State of New Hampshire.

Mr. CANNON. No; that is not a correct statement of the Senator's position, I may say.

Mr. BUCKLEY. Let me put it this way: Certainly there are many on this floor who have drawn that conclusion. That, perhaps, suggests that we have not had sufficient debate, with sufficient Senators present, in order to understand the precise nature of the arguments made.

Mr. CANNON. I understand why that conclusion has been drawn, if the Senator will permit me, on that side of the aisle, because they have not been willing to listen to the arguments on the ballots. If we get one of those ballots up there then they would listen to the arguments on both sides.

Mr. BUCKLEY. At another time, Mr. President, perhaps I will pursue that particular area.

But the Senator has stated that it is the constitutional obligation, the prerogative of the Senate, to determine what it was the voter intended to do.

Mr. CANNON. That is right.

Mr. BUCKLEY. I believe that we cannot invoke any theory of waiver of estoppel, because we are not talking about whether or not Mr. Wyman or Mr. Durkin ought to be seated; we are not talking of them as principals who are entitled to waive an argument or a defense. We are trying to determine the will of the people of the State of New Hampshire.

So I believe we ought to totally erase from further discussion any question as to whether or not a challenge was timely. Rather we ought to be devoting ourselves to as open a reexamination as possible of what that intent was. That means we ought to raise no objection whatsoever, no technical, no procedural objection to any desire by either party to reexamine any vote, any precinct, any machine.

Mr. GRIFFIN. Mr. President, will the Senator from New York allow me to make an observation? His argument is entirely consistent with the practice of the Senate in the past. Where the Senate has undertaken to do any recounting they have recounted all of the ballots, which is the most appropriate thing. Just go ahead and recount the whole election, and then we do not get into these questions of protest.

Mr. BUCKLEY. It occurs to me that

the amendment now before us precisely operates on that philosophy. It precisely says that if there is a question which has arisen in the course of the deliberations of the committee as to which the committee tied, if we are to treat one set of ballots in this manner—we have an obligation to the people of New Hampshire—we ought to examine all of the ballots to see what other ballots may fit into this situation at the same time. Thus we may apply consistent principles to a determination of what was, in fact, the will of the people of New Hampshire. This, it seems to me, is what we are talking about.

Mr. GRIFFIN. I think the Senator is making an important contribution. Of course, the position of the Wyman forces is there never was any waiver of their rights. They have maintained and reserved them. But the argument, it seems to me, that the Senator from New York is making is so valid that that really need not be a question before the Senate. We have the constitutional right and responsibility to not even look at that question because our job is not to decide something like a lawsuit where private parties' interests are involved. It really does not matter in a real sense whether one lawyer made a mistake or another made a mistake. It seems to me that our responsibility, our function, is to determine what the will of the people of New Hampshire was on November 5 if we are going to approach it on that basis.

Mr. BUCKLEY. Mr. President, I wonder if I might ask the distinguished Senator from Michigan, who is an experienced lawyer, this question: Might a voter in New Hampshire whose ballot was not challenged have a right to complain of any attempt by Mr. Wyman to waive that voter's right to have that ballot examined in accordance with the same rules that are being applied to the challenged ballots?

Mr. GRIFFIN. I will not pretend to give the Senator an authoritative answer, but, it would seem to me, that particularly in light of the concern of the court as well as Congress for civil rights of individual citizens, of voting rights, of equal rights, one-man, one-vote, and the things that we are so interested in and so concerned about, that the Senator makes a very good point. It seems like such a citizen would have a standing and a right to say that his vote should be counted along with and under the same standards as all the other votes that are voted in that particular State. That is the reason why it just seems incredible to me that we would even consider taking the "skip" type ballots and apply one rule to those that happen to be in a group of 3,500, knowing that a different rule was applied to all the similar ballots in the larger group, 180,000, that we do not want to go into or some of the Senate do not want to go into.

If I may, while the Senator has yielded to me, the Senator from Nevada, the chairman of the committee, made reference to the fact that the instruction sheet given by Mr. Wyman to his challengers at the precincts was dated 1964. I do not know exactly what the chairman may have intended to infer or imply by that. That is true. These particular instructions for challengers at precincts were drawn up and used in the 1964 election but were also used by Mr. Wyman and his forces in this election, which only reinforces the fact that that has consistently been the law as observed by those who have operated as challengers in elections during that period of time.

I want to read again. Here is how Mr. Wyman's attorney is adopting and using these instructions, their understanding of the law. No. 9 as it appears in this instruction sheet says:

> A cross in party circle and a cross in some boxes, *but not all*, under the same party column, is still to be counted as a straight ticket, because no names in the party column have been crossed out or erased.

Then there is a citation of the New Hampshire statute which provides precisely that, and it seems to me that rather than detracting from the case to be made, it strengthens and reenforces the case.

Mr. BUCKLEY. I think the point made by the Senator from Michigan is an important one.

We are talking, in effect, about boilerplates. The boilerplate for challenge, the totally accepted law of the State of New Hampshire for determining whether a vote is valid or not valid, and I assume nothing happened between 1964 and 1974 to change that understanding.

Mr. GRIFFIN. The Senator is correct.

Mr. BUCKLEY. I would like in this connection to read into the RECORD an affidavit executed by a former member of the New Hampshire Ballot Law Commission who had served over a number of years in that capacity and who states in that affidavit that during his experience no one has ever thought of challenging a "skip-candidate" ballot.

It is dated Nashua, N.H., June 16, 1975:

> I, James L. Sullivan, having been duly sworn, depose and say as follows:
>
> 1. I am a native of Nashua, New Hampshire, and with the exception of six years in the nineteen thirties have been a resident of Nashua since 1905.
>
> 2. I am an attorney-at-law and served as a member of the New Hampshire Ballot Law Commission from July 1, 1954 to June 30, 1962.

This brings us back another decade before those printed instructions.

> 3. During the years of my service on the New Hampshire Ballot Law Commission, to my best knowledge and recollection, no ballots of the "skip type" were protested and brought before the Commission for a determination of their validity and effect.

I regret that the distinguished senior Senator from New Hampshire is not here because it is my understanding that during the period of this affidavit he, in fact, was engaged in a contested election before this very commission on which Mr. Sullivan was then serving and according to this testimony, at least, the distinguished Senator from New Hampshire (Mr. MCINTYRE) did not challenge any "skip" ballots of his opponents.

Mr. GRIFFIN. I might say, at the present time Mr. MCINTYRE seems to be both the senior and junior Senator from New Hampshire.

Mr. BUCKLEY. There are, of course, those of us who believe Mr. Wyman is in possession of the certificate of election and that he ought to have been seated pending these considerations.

Mr. STONE. Mr. President, will the distinguished Senator from New York yield for a question?

Mr. BUCKLEY. I will gladly yield to the Senator.

Mr. STONE. A little while ago the Senator said that it would, in effect, be a travesty to treat these "skip-candidates" ballots in that way.

By treating them in that way, or such a way, I assume the Senator referred to treating them by nullifying them. Is that what the Senator had in mind?

Mr. BUCKLEY. I am trying to recall my exact words.

What I was addressing myself to was to treat the identical fact situation in different ways, in a consistent way.

Mr. STONE. Right. Now, how can the Senator know how the Senate is going to treat at least three different varieties of "skip-candidate" ballots?

For example, just as a hypothetical, suppose one of these "skip-candidate" ballots has the name of Mr. Wyman crossed off; suppose one of these "skip-candidate" ballots has other markings on the ballot; suppose another one of these "skip-candidate" ballots skips all but one individual signature; suppose one of these "skip-candidate" ballot marks includes the individual X'd in all but one?

In other words, there are a variety of "skip-candidate" ballots, according to the series of questions and answers the Senator from California (Mr. CRANSTON) asked the distinguished chairman of the Rules Committee last night, and they are not all the same.

How can the Senator assume that the Senate is going to treat them in any way until we get a chance to debate and vote?

Mr. BUCKLEY. Mr. President, I believe the Senator from Florida was not here when I began my remarks.

Mr. STONE. Yes, I was.

Mr. BUCKLEY. Well, my remarks were addressed to the amendment now under consideration that would require that all 180,000 ballots be searched for "skip-candidate" types.

All I am arguing is that if we are going to apply one set of rules——

Mr. STONE. That was my question. What set of rules did the Senator assume we were going to apply?

Mr. BUCKLEY. The set of rules that I suggest, at least, is being advocated by the chairman, is that we ignore the stated law of New Hampshire with respect to designation and attempt to determine the intent of the person who marked a particular ballot.

And I am not going to second guess if we are ignoring New Hampshire law as to how this body would determine ballot A, versus ballot B, versus ballot C. What I am saying is if we are going to apply this kind of standard of examination to the ballots that are now before us, we have a duty to go into the other

180,000 and find other of the skipped-ballot types in order that we may apply the same kind of examination ballot by ballot.

Mr. STONE. The Senator from New York gave a brilliant display of his familiar erudition in the length of the sentence, so I could not break in at the right time. He said at the beginning of the sentence, "If the Senate applies such a rule," and that is the point of the Senator from Florida.

How does the Senator from New York know what rules or what decisions the Senate is going to apply?

It is true that the chairman of the Rules Committee and others in the Rules Committee advocate a certain approach, but it is just as true that the vote was 4 to 4 on these points and the Senator from Florida is very anxious, along with other Senators, to get into the analysis of each one of those tie votes, because it is very possible that if in some of these circumstances a standard is adopted, any standard, that the arguments then of retrieval become somewhat relevant.

Then we can get into the question of what we are retrieving, but until, until the Senate really votes and rules on what yardsticks could be applied to what type of "skip-candidate" ballots, or all, it seems to the Senator from Florida that we are spinning our wheels.

Mr. BROCK. Will the Senator from New York yield?

Mr. BUCKLEY. I yield.

Mr. BROCK. Mr. President, may I say to the Senator from Florida that I tried to say exactly what he has said. I agree with it, but I think we have chosen, at least by negative action, another course of action.

When I offered an amendment to apply New Hampshire law to all candidates, that amendment was defeated. That was yesterday or the day before yesterday. I am losing track. Now we are in the position where the Scott amendment is before us.

The PRESIDING OFFICER. The Chair will observe that the hour of 4:30 having arrived, the question is on agreeing to amendment No. 627. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. MCGEE), the Senator from North Carolina (Mr. MORGAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from New Mexico (Mr. MONTOYA) is absent because of death in the family.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 45, nays 48, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—45

Allen	Fannin	Pearson
Baker	Fong	Percy
Bartlett	Garn	Roth
Beall	Goldwater	Schweiker
Bellmon	Griffin	Scott, Hugh
Brock	Hansen	Scott, William L.
Brooke	Hart, Philip A.	Stafford
Buckley	Helms	Stennis
Byrd, Harry F., Jr.	Hruska	Stevens
Case	Javits	Taft
Chiles	Laxalt	Thurmond
Curtis	Long	Tower
Dole	Mathias	Weicker
Domenici	McClure	Young
Eastland	Nunn	
	Packwood	

NAYS—48

Abourezk	Hart, Gary W.	Metcalf
Bayh	Hartke	Mondale
Bentsen	Haskell	Moss
Biden	Hathaway	Muskie
Bumpers	Hollings	Nelson
Burdick	Huddleston	Pastore
Byrd, Robert C.	Humphrey	Pell
Cannon	Inouye	Proxmire
Church	Jackson	Randolph
Clark	Kennedy	Ribicoff
Cranston	Leahy	Sparkman
Culver	Magnuson	Stevenson
Eagleton	Mansfield	Stone
Ford	McClellan	Symington
Glenn	McGovern	Talmadge
Gravel	McIntyre	Williams

NOT VOTING—6

Hatfield	McGee	Morgan
Johnston	Montoya	Tunney

So the Scott-Griffin amendment (No. 627) to Mr. ALLEN'S amendment (No. 605), as modified, was rejected.

Mr. CRANSTON. Mr. President, I send to the desk an amendment to the Allen amendment, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HANSEN). The amendment will be stated.

The legislative clerk read as follows:

At the end of Division 1 of the Allen amendment No. 605, as modified, add the following:

"Vote numbered 120, to be counted for Durkin."

The PRESIDING OFFICER. The Senate will be in order.

The Senator from California may proceed.

Mr. CRANSTON. If I may briefly explain the purpose of this amendment, a number of efforts have been made, primarily by the members of the Rules Committee on this side, to get a vote on the various issues that were unresolved by the Rules Committee and have come to us for a decision.

Those efforts related to some of the substantive differences on the recounting of precincts or on voting machines, and so forth. All of those efforts have failed. This represents an effort which is similar, but different in this respect; that it deals with one of the contested individual ballots. The purpose is just to see if we can consider one particular ballot that is in dispute, that came out of the committee with a 4-to-4 tie, and make a decision on that particular ballot at this time.

I think the most orderly way to proceed would be first to have the chairman of the committee make a presentation of the view of those who felt it was a Durkin ballot, and then, if they would, to have the members of the Rules Committee holding the opposite view present their view.

Therefore, I yield the floor to the chairman.

Mr. HUGH SCOTT. Mr. President, before he yields, may I ask the Senator a question?

Mr. CRANSTON. Yes.

Mr. HUGH SCOTT. We have been asking all along, on this side, to be able to call up some of these 35 matters out of order. We have been denied that. That is part of what the argument is about. The reason we are still on issue No. 1 is because we were not allowed to go on any of the others.

I understand that the Senator proposes to do what we were not permitted to do up to now. I was told that under the wording of the committee coming from the Rules Committee that we could not skip around, as the Senator now proposes. There are certain practical objections.

If the Senator will name the ballot number I can reply.

Mr. CRANSTON. 120.

Mr. HUGH SCOTT. The practical objections are that ballot 120 is not here tonight before the Senate, and the key to the ballot box is in Oregon with the Senator from Oregon (Mr. HATFIELD). So I do not know how the Senate can act without looking at the ballot unless it wants to begin to look like the Rules Committee, not that we did not look at the ballot, but we had a lot of evidence that minds were made up beforehand.

Mr. CRANSTON. Let me say, in answer to the latter part first, and then I will go back to the first point of the distinguished minority leader, we do have very large photocopies that can be placed on the easel there and everyone can look at this photocopy. If there is any feeling that it is not a fair representation of the ballot, of course, that question can be raised. But I believe that there is a valid photocopy we can look at. It is very plain what the issue is on this ballot.

Second, on the matter of not being able to bring up the other unresolved matters beyond issue No. 1, we have had a great many issues offered at one point or another in the form of amendments. Plainly anyone who wished to at any time could have done what I am seeking to do by taking one of these issues and offering it as an amendment to something pending in the Chamber which automatically places it before the Senate.

Mr. HUGH SCOTT. I say that the committee discussed this whole matter of photocopy.

I thought we were unanimous, or nearly so, on the fact that we did not want to rely on photocopies, that there were certain questions in many of these ballots which were distorted on the photocopies. We tried enlargements of ballots, and we threw that out after a couple of tries.

I understand the committee agreement when it sent this matter to the Senate was that we would see the actual ballots.

Mr. CRANSTON. If the Senator will yield, this particular ballot, was selected in part because it is so clear cut that there cannot be any question about this being a fair representation of that ballot.

To explain just briefly what happened here: the voter put a diagonal mark in each of the boxes opposite the name of each candidate he chose to vote for; it happened to be all those in the Democratic column. Then the voter, called by some people the lazy voter, drew one line all the way down as his way of making the cross in each mark. Instead of lifting the pencil between each box he simply drew a line all the way down which was his way of turning those into an X.

It is very clear that the only issue is should those be counted as valid votes or not counted as valid votes. Anyone who looks at that can tell what the issue is.

There is no other mark or smudge on, or question about that particular ballot. One can see the ballot by looking at this representation of it.

I think I have explained exactly what the issue is, although there could be differing views as to whether or not this should be counted as a valid vote or not. If it is not counted as a valid vote for Durkin, then those who say it is not a valid vote allege that whoever cast this ballot went and marked it in this way for the purpose of not casting a vote for anyone, which is not a very logical assumption.

Presumably when people go to vote, they intend to vote for someone, and they do not intend to indicate they are not voting for anyone.

That is, I guess, the issue in this particular case.

I would like to yield to Senator CANNON, who was asking me to yield awhile ago, to allow him to make whatever comments he would like to make at this point on this particular matter.

Mr. HUGH SCOTT. I will not ask the Senator to say anything more except to point out that we do not have the ballot, and we do not have the key to the ballot box. If the Senator wants to pick one that he thinks is a better one for his point of view and try to establish some sort of a trend here, contrary to what we thought we were doing, that is, looking at the ballots, he can do it, but it strikes me as not exactly kosher.

Mr. CRANSTON. I would like to ask the Senator how long the Senator from Oregon is going to be absent with the key to the ballot box, and how long a time that means we can never get to the issues or to vote cloture and what would happen then?

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

Mr. CRANSTON. Certainly.

Mr. CANNON. I ask the Senator if it is not a fact that one of the members of the staff on the minority side has the key, not only the other key to the room containing the ballots, but also I have the key to the ballot box right here. If one of the minority staff members has the key to the room, and I believe that he does, we have both keys to the room irrespective of the Senator from Oregon.

Will the Senator respond to that?

Mr. HUGH SCOTT. I can only ask and inquire, because I was told that the Senator does not have a key, that the key to the ballot box is in the hands of the Senator from Oregon.

Mr. CANNON. The key to the ballot box is right there. That is the key. Now everyone can see it right here. That is the key to the ballot box.

Mr. HUGH SCOTT. There are not two keys, that are to be used at the same time?

Mr. CANNON. Not to the ballot box; I do not think so.

Mr. HUGH SCOTT. Are they not to be opened in the presence of the chairman and senior ranking Senator?

Mr. CANNON. There is one lock.

Mr. HUGH SCOTT. And two keys, yes. Are they not to be opened in the presence of the chairman and senior ranking Senator?

Mr. CANNON. The ballot box has never been opened except in the presence of the Rules Committee.

Mr. HUGH SCOTT. Then the Senator may have the key. I do not know. Do we? Does any of the staff? One of the staff members has the key to the room.

Mr. CANNON. That is what I thought.

Mr. HUGH SCOTT. We still do not have the ballot in front of us.

Mr. CANNON. Mr. President, I would be very happy to have the debate on this issue. We have a photocopy of the ballot up here.

If there is a desire to wait until the morning, I would ask unanimous consent that the minority side produce their key to the room that contains the ballots. I shall produce the other key. We have two locks on the doors.

I ask unanimous consent that the big box containing the ballots be brought right up here and that the boxes containing the tie votes be brought right up here and that we go through the process of presenting the original ballot on the board for all of the Senators to see.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

Mr. BROCK. Mr. President, reserving the right to object.

The PRESIDING OFFICER. There is objection.

Mr. CRANSTON. The objection was the ballot was not here. What is the objection now?

Mr. CANNON. If this is what the Senator wants—to bring it here——

Mr. GRIFFIN. Mr. President, if the Senator will yield, may I respond?

Mr. CANNON. Certainly.

Mr. GRIFFIN. As the Senator from Pennsylvania said, we are running into the consistent argument by the chairman of the committee that we are supposed to take the things in order. At least we ought to take them section by section in order. We have these other issues today. Why would he pick out one ballot out of section 2 and present it in this way? It seems to me when we get to the matter of reviewing the ballots we ought to do it in an orderly way. It is certainly not appropriate at all to——

Mr. CRANSTON. The Senator from Maine stated the desire to count ballots one by one, and this is a ballot that is very clearly portrayed, with no questions about any other marks on it, by the reproduction there.

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

Mr. CRANSTON. Any Senator could have done what I did and could have offered one of these as amendments, and put it in such a form so that the chairman of the committee does not have the power of preventing any Senator from doing what I have done.

Mr. CANNON. If the Senator will yield, I say the impression here that I have been given is that I objected to bringing up of amendments. I pointed out earlier, we voted on one amendment five times, in five different forms, including the one today. I must say I am a little disappointed that we cannot get to some of the issues, but I never objected to any of these issues being brought up as proper amendments to any part.

As a matter of fact, I even offered issue No. 2 as an amendment to the Allen amendment, and it is now pending. It is pending to the divided part of the Allen amendment which is the pending business.

This is the perfecting amendment, as I understand it, to the Allen amendment.

Mr. CRANSTON. That is right.

Several Senators addressed the Chair.

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

Mr. CRANSTON. Yes, I yield to the Senator from Connecticut.

Mr. WEICKER. I think in response to the distinguished Senator from California the difficulty, as has been stated, is the fact that there has been objection by the other side going out of order. The fact is, the Senator says this ballot is clear cut, and I am happy to agree. I might add I just took a look at it. Reserving a final decision on the basis of the arguments I hear, it looks to me very much like a Durkin ballot. That is my opinion.

The fact is that we presented arguments on issues on the floor of the Senate for the last several days which were just as clear cut, and we got rolled over. The problem is not that I, personally, do not think that is a clear-cut ballot. I do. And it looks very much to me like a Durkin ballot.

The problem right now is the distrust that exists between the various sides because of what has transpired, be it procedural or factual, over the last several days. Many things have happened here today which would indicate that many of the Members feel that there should be some movement other than the stated positions of the chairman of the Rules Committee or as enunciated on this side. I think that perhaps a little thought given here this evening to the problem may be of assistance, not only on this issue but on other issues as well.

Mr. CRANSTON. Will the Senator join me in a unanimous-consent request with respect to this amendment—that the Senator from Connecticut or anyone he designates be authorized to call up a ballot he would like to consider?

Mr. WEICKER. I am not authorized to speak for the leadership on this side.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WEICKER. I indicate that since there does seem to be movement on both sides, why should that not be explored, rather than catching each other short and getting all boiled up now?

You have something that is clear-cut; we have something that is clear-cut. There is no point in getting excited at each other again. I think there seems to be a willingness to identify things—whether it was the Senator from Louisiana earlier today or the Senator from West Virginia relative to committee assignments. It seems to me that rather than springing it on each other at this time, we would be well advised to do a little talking.

Mr. CRANSTON. I point out another thing that totally baffles me.

The PRESIDING OFFICER (Mr. STONE). Will the Senator suspend?

The Senate will be in order.

Mr. CRANSTON. I am baffled by the suggestion that I have broken some precedent by bringing up 1 of the 35 issues out of order, before we have disposed of the first. The fact is that my amendment is an amendment to Senator ALLEN's amendment, and Senator ALLEN's amendment presents issue No. 7 to the Senate. So I am following the precedent that was set by the Senator from Alabama, if not by others earlier—and I think other Senators earlier offered amendments which contained the substance of other issues.

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

Mr. CRANSTON. I yield to the Senator from Nevada so that he can give a presentation of this issue. It is before the body. Whether the body likes the fact that it is before body or not, I think the body would like to hear a discussion about it. If we do not come to a vote on it—I understand that I do not have the power to bring it to a vote.

Mr. CANNON. Mr. President, on this ballot, as one can see from the copy—I have marked on the overlay a rough representation of what it is—the slash mark is marked in every square in the Democratic column, every square. New Hampshire law says that you can vote with a slash mark as well as the check as well as the X's, and we have consistently followed that in the committee.

This is what we call the lazy man's ballot, because after the man marked the slash in every square, he took his pencil or pen and drew a line all the way down through every one of the squares. With that long line, it actually makes an X; and without the line, the slash would be good, in any event.

The argument that was made is that this was an attempt on the part of the man to cancel his vote. It is a rather unusual way to attempt to cancel a vote, because he took the trouble of entering the slash marks in every solitary square in the Democratic column.

The repeated thrust of the New Hampshire law is that of the enfranchisement of the voter and not the disenfranchisement.

The PRESIDING OFFICER. The Senate will be in order. Senators around the blackboard will hold down their conversation.

Mr. CANNON. This concept is clearly delineated in the case of Stearns against O'Dowd, a New Hampshire case, at page 361, which states:

> The presumption that the voter intended the paper prepared by him as a ballot; and, to prevent loss of his vote, his main purpose would be carried out by giving to the mark made by him the only interpretation possible.

In addition, the New Hampshire statute states:

> Only when it is impossible to determine the voter's choice should the ballot be regarded as defective.

This voter took the time, on November 5, 1974, to go to the polls. He certainly did not intend to cast a nullity. To count this ballot as a no-vote rather than a vote for Durkin is to count it as a no-vote in every one of the races on that sheet. Therefore, the ballot would be a nullity. The voter would be disenfranchised.

I submit to my colleagues that the ballot is quite clear.

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

Mr. CANNON. Let me just complete my statement.

I do think the Senator has made the point that we do not have the exact ballot here; but, as I said earlier, the ballot is downstairs, under lock. The minority counsel and I have the keys to the ballot room. The ballot box could be brought up here. We do not even have to have the key to the tie vote ballots, because they are in a separate box that Dr. Riddick put them in, pursuant to the instructions of the Senate. I do not think that box is even locked, but it is in the locked ballot room, under guard by the Capitol Police, with two locks on the doors, one of those keys being held by the minority and one being held by the majority.

I am perfectly willing—and I will make a unanimous-consent request shortly—that we bring the boxes up here tomorrow, and that we display the exact ballot on the board, so that people do not have to rely on one sheet up here which is a photocopy, and the other is a drawing of a representative copy, and my big mark on the overlay is just one that I drew with the crayon.

I yield to the Senator from Alaska.

Mr. GRAVEL. With respect to the ballot, as the Senator from Nevada stated, there were other members of the government of the State of New Hampshire who were voted for on that ballot. With respect to that particular ballot, I do not know if it is valid or not——

The PRESIDING OFFICER. Will the Senator suspend momentarily?

Will Senators please take their seats? Senators cannot hear the colloquy.

Mr. GRAVEL. Take a House Member or a member of the State Legislature of New Hampshire: Was the vote for him nullified in that election, or did the government of New Hampshire count that ballot toward the election of that individual?

Mr. CANNON. I have no way of knowing how that ballot was counted by either the secretary of state or the ballot law commission. My suspicion would be that it probably was counted as a valid Durkin vote, but I do not know that.

Mr. GRAVEL. I am not saying Durkin; I am saying the other members.

Mr. CANNON. The only one I can speak to is the Durkin situation. But I would assume that the other people from New Hampshire who had that kind of vote—I would assume that the vote was counted for them, else the voter would have been completely disenfranchised, and that is not the law of the State of New Hampshire.

Mr. HUGH SCOTT. Mr. President, if the Senator will yield, I wonder whether we could get some understanding that we get the actual ballot up here tomorrow morning and then go ahead and vote on it.

Mr. CANNON. Mr. President, I ask unanimous consent that when we recess tonight, the question of ballot No. 120 be the pending business in the morning.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, I object.

Mr. CANNON. I should like to conclude.

That we have a time limit of——

Mr. HUGH SCOTT. Instead of a time limit, say we vote 1 hour after the vote on the cloture motion.

Mr. CANNON. That we vote 1 hour after the vote on cloture; that the Sergeant at Arms and Dr. Riddick be authorized and directed to bring up from the ballot box room the big box containing the ballots that have been voted on and the box containing the tie vote ballots; that at that time, the ballot in question be stripped of its identifying previous action marks and be placed on the easel for all of the Senators to see, and that we vote on this question of No. 120 1 hour after the vote on cloture.

Mr. BELLMON. Will the Senator yield?

Mr. CANNON. Yes; I am happy to yield.

Mr. BELLMON. I believe the Senator's comment was that he did not know whether this ballot was counted for Durkin or not originally. Is this true?

Mr. CANNON. Yes; what the committee did was have Dr. Riddick strip off the ballots the identifying mark indicating how the ballot was counted by the secretary of state and how the ballot was ruled on by the ballot law commission. That was our procedural action in the committee.

Then we instructed that, after we voted on the ballots, Dr. Riddick reattach those slips to the ballots and place them in the box.

Mr. BELLMON. So the Senate will know ultimately how this ballot was originally counted?

Mr. CANNON. I hope not. The Senate can do what it wishes, but I should hope that those slips will be removed from the ballot when it is placed up here, so that

the Senate will not be influenced in any way by what the secretary of state or the ballot law committee might have done.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, Mr. President, I shall not object.

I point out to the distinguished chairman that this amendment of the Senator from California is an amendment in the second degree and its being put into effect would depend on the acceptance of the amendment of the Senator from Alabama. Until such time as the amendment of the Senator from Alabama is agreed to, carrying with it the Cranston amendment, it would have no efficacy. It would have no power or standing at all. I wonder if it would not be the better part of wisdom to vote first on the pending amandment in the first degree so that some of these issues can come up as amendments in the first degree. I wonder if the Senator has considered that.

Mr. CANNON. I should be reluctant to see us vary the procedural rules at this time. I do recognize the validity of what the Senator says. I think that what we would have to do is have that ballot kept separated from the big box if we vote on it until such time as we determine if the Senator's amendment is adopted. If his amendment is not adopted, we would have to revote on this at some point, in some other form, but we would have at least established our views on it.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object, I was not certain that I understood the response to the question of the Senator from Oklahoma with regard to the identifying marks. Did I correctly understand the Senator from Nevada to say that the identifying marks had been removed from the ballot by Dr. Riddick while it was being considered by the committee and then reattached to the ballot by Dr. Riddick after consideration by the committee? Is that correct?

Mr. CANNON. The Senator is correct, but I do not think he ought to use the words "identifying marks." The ballot slips, the certificates, were removed.

Mr. McCLURE. The material that identified the action that had been taken with respect to that ballot at a prior time?

Mr. CANNON. The Senator is correct.

Mr. McCLURE. I understand the unanimous consent request to be that that material will again be removed by Dr. Riddick prior to the time it is presented to the Senate for its consideration.

Mr. CANNON. The Senator is correct.

Mr. McCLURE. I am to understand that that identifying material could again be reattached after the Senate has taken its action?

Mr. CANNON. That was the motion. It would be reattached, because if we do not reattach it, then we get into a problem of how we apply to that ballot the results of the ballot law commission.

Mr. McCLURE. That is the point I was not certain is being made clear. If it is the understanding that that material will be reattached to the ballot following the action of the Senate, then I think there is no problem. I would have no objection to the procedure.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Reserving the right to object, Mr. President, I wish the manager of this controversy would explain to us what he means by removing marks from the ballot? Will not this ballot remain intact, just as it was when it was cast?

Mr. CANNON. Yes; I say to the Senator that, under New Hampshire procedure, at the recount before the secretary of state, when either party, or both, protests a ballot, the secretary attaches to it a little slip—I believe it is a little smaller than this sheet of paper. He attaches the slip to the ballot, and it says, "Ballot protested by" Durkin or Wyman, or in some instances, by both. It has a blank filled in it—"protested by Durkin," "protested by Wyman." It also says "counted for."

The secretary of state enters on that slip whom the ballot was protested by and whom the ballot was counted for, and fastens that to the ballot. It goes on to the ballot law commission and the ballot law commission considers it, then attaches their slip to it as to how they treated it.

On their slip, they said either that the ballot law commission sustains the position of the secretary of state or overrules the position of the secretary of state.

Mr. CURTIS. What was the action of the Committee on Rules with regard to this particular ballot?

Mr. CANNON. The action of the Committee on Rules on this particular ballot was a 4 to 4 tie. Four members of the committee voted that that was a good Durkin ballot and four of the Committee on Rules voted that it was no vote, they taking the position that that long line down through there evidenced an intent to cancel all of those votes.

Mr. CURTIS. What did the ballot law commission rule?

Mr. CANNON. I cannot tell the Senator that, because the slips were taken off before it was presented to us. I am sure that either Mr. Wyman or Mr. Durkin could tell us, because I think they know how the rulings were on all of these.

Mr. CURTIS. That is what I wonder. If there are people here who know what this is about, what is the purpose of all these charades? What is the purpose here?

Mr. CANNON. The purpose of that is so that the Senate, when they look at that ballot, can make a decision without reference to what the ballot law commission did or the secretary of state did.

Mr. CURTIS. It is not a question of whether we look and of not knowing whether we are deciding for Durkin or Wyman?

Mr. CANNON. Oh, no; we know that here, there is no claim it could be a valid Wyman vote, because there is nothing on the Republican side. But when the Senate looks at that vote, they are either deciding that it is a valid Durkin vote or that it is no-vote. That is the decision. There is no question about it being a Wyman vote.

Mr. CURTIS. But it seems to me that we ought to accept the premise that the Committee on Rules, which sits as the appellate court for the ballot commission, having a tie vote, did not overrule the ballot law commission. If we are going to proceed de novo to count some of the ballots, we ought to do that with all of them.

Mr. CANNON. I simply point out that——

Mr. CURTIS. How many ballots are in this proposal for the unanimous-consent request?

Mr. CANNON. One.

Mr. CURTIS. Well, the Senator from Nebraska has tried to be here on the floor all that he could, but this afternoon, there was a conference over the Unemployment Compensation Act that expires on July 1. I never heard this controversy before.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HUGH SCOTT. Mr. President, will the Senator yield for a comment on this ballot?

Mr. CANNON. Yes, I yield.

Mr. HUGH SCOTT. I think we should point out that there has been this situation where the Committee on Rules decided that a slash mark was a valid mark and counted it exactly the same as if it were an X, which is the argument here, followed by the argument that the so-called lazy voter drew his line down and, thereby, covered all the slash marks and, in effect, twice indicated his desire to vote for, in this case, Mr. Durkin. The other equally valid conclusion, since we try to read his mind, is that he drew the line down in order to strike out his previous choices.

The inconsistency that I want to point out here is that the same committee, seeing the same kind of slash mark on another ballot—I do not know whether that was ballot 22 or not. On that one, we had an example in the column, in the line of one candidate for the Senate; we had a clear line slash mark in the box of the other candidate for the Senate, and four Senators on the Committee on Rules said that was not a double vote.

They said the slash mark did not count because there were two marks on one side and only one mark on the other.

On this one they say the slash mark is a vote. I am only pointing this out so you will be consistent when you get to these others where you will see an X on one side and a slash mark on the other, and we have said those are both votes and, being both votes, it is a double vote, and it cannot count for anybody. It is an invalid vote.

If you are going to hold a slash mark is good in this case; namely, this one, you ought to hold a slash mark is good in the next case you get, and the next, because what is happening here is an attempt to bring up what evidently the Senator from California thinks is his

best case. He has what he believes is his strongest ballot in first, and I do not know that that follows, but I think that is the intent here because he has skipped around. This is 120, and we have some ballots before this we debated, and we had some ballots afterward. So we are saying now what we have been denied all the way through this debate, and that is the right to hunt and peck around until we can get our teeth into a ballot which some people on the other side think may be their best chance.

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

Mr. HUGH SCOTT. I will be glad to yield.

Mr. CRANSTON. The Senator mentioned another ballot. I just ask if the Senator was referring to ballot No. 88.

Mr. HUGH SCOTT. I am not sure whether it is 22 or 88 or not.

Mr. CRANSTON. Is it one of the ballots that is before us, one of the disputed ballots?

Mr. HUGH SCOTT. It is a disputed ballot.

Mr. CANNON. I may say that it is.

Mr. CRANSTON. Eighty-eight.

Mr. GRIFFIN. I would like to refer——

Mr. CANNON. Mr. President, did I have the floor?

The PRESIDING OFFICER (Mr. STONE). The Seantor from Nevada has the floor.

Mr. CANNON. Yes; I would say the Senator did raise the question. It is ballot No. 88, only the situation is a little different, as the Senator remembers it. Ballot 88 had a cross in Mr. Wyman's square this item right over here, and right over in Mr. Chimento's over on the other side voted a slash, which is a valid voting mark. So he had double-voted in that race.

But, I may say to my colleague, the Senator from Pennsylvania voted that that was a valid Wyman vote, not that it was a no-vote; that he wanted to disregard the slash in this particular one, according to the records here.

There were 4 in that case who voted, and that is ballot 88, voted that it was no-vote, and because it was a double vote, and 4 of my colleagues voted that it was a vote for Mr. Wyman.

Mr. CRANSTON. Will the Senator from Pennsylvania respond to my question, was it ballot 88 he was talking about?

Mr. HUGH SCOTT. Well, not entirely ballot 88. I think the Senator from Michigan will further discuss this, but we have in mind ballot 112, which is marked just the same way, only it is marked for Mr. Wyman and not counted. Then we have ballot 343, which is partially marked the same way, and then scratched up and down, and was treated by the committee, I believe, as an erasure, although we contested it. These two ballots were voted against Mr. Wyman even though ballot 112, it seems to me, is the precise situation for Wyman as ballot 120 is for Durkin.

Mr. GRIFFIN. Mr. President, if I could observe—this is for background to realize why the committee might have voted the way they did on a particular ballot—it is important to realize what the committee did on other ballots.

On other ballots, recognizing that in the law of New Hampshire it involved the requirement that an X be placed in the square, and also recognizing that checkmarks were to be valid marks, the committee was confronted with ballots marked in a similar way where Mr. Wyman would have gotten the vote, a lazy man's vote, so to speak, and in those instances those ballots are not before us. Why not? Because the committee did not tie on it. A majority of the committee denied the vote to Mr. Wyman, and they are not even here. But that explains why you would have had a tie on a similar ballot where the same situation came up, and it would have been a vote for Mr. Wyman.

So it is not surprising at all that there were more votes denied to Mr. Wyman of a similar character than this one here, which has not yet been denied to Mr. Durkin. It is only a tie vote.

Mr. CRANSTON. I wish to ask the Senator this question about ballot number 88 in relationship to this ballot. It has been suggested by those who say this is vote a vote, that the voter voted by the slash mark he put down, the sideways diagonal marks, and that when he canceled out those votes by means of the straight line.

On the other hand, in ballot 88, a voter put an X in Louis Wyman's square and then he put a slash mark in the square of the American Party candidate for the Senate, Mr. Chimento. There were four members of the Rules Committee who voted that that was a Wyman vote, and that a slash mark was not a vote for Mr. Chimento. This is inconsistent with the position that these slash marks were votes until they were crossed out.

Mr. CANNON. That is correct.

Mr. WEICKER. Mr. President, will the distinguished Senator yield to me?

Mr. CANNON. I yield.

Mr. WEICKER. I would hope my colleagues on this side of the aisle would consider the unanimous-consent request of the distinguished Senator from Nevada. I understand exactly how we have been treated on clear-cut issues during several days. But the fact is that this does afford some chance for movement, and I think that is all on the plus side.

I do not think we really can use the argument that this is coming out of order for the simple reason that basically, even though the majority cannot refute it, we have been going out of order in our amendments where we have raised issues, even though that has been denied by the majority. The fact is we have been raising issues as amendments to section 1.

The reason why we are not getting flak from the majority is because it is their position we have not been raising issues so they cannot come back at us now and make that parallel. But, indeed, we have gone out of order in the amending sense.

Mr. CURTIS. Mr. President, will the distinguished Senator yield for an observation?

Mr. WEICKER. Yes, if I could just finish here.

As I have indicated, I tried to explain why it is we are so sensitive on this side to a "clear-cut issue" because we have presented clear-cut issues and they have pretty much gone down the line against us.

The fact is that there are many of us on this floor who are honestly trying to do a conscientious job, a fair job and, regardless of what the orders are from higher-ups, I am inclined to think there is a far greater independence present than would seem to be the case on the surface. I speak strictly as the Senator from Connecticut.

I see no harm at all in bringing those boxes here, having this matter discussed and, quite frankly, voted on after cloture, and I would just hope that regardless of what the history has been up to this point, if there is an approach toward reasonableness and the possibility of minds getting together, it would emanate from this side.

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

Mr. WEICKER. I certainly do yield.

Mr. CURTIS. Having been the Senator who objected, I would like to make this statement.

My reason for objecting is twofold: In the first place, I have been here a good deal of the time. I have never heard the issues debated in this matter. There have been no court cases cited of how a court might have decided a similar marked ballot. To my knowledge, there has been no one to arise and say they have searched all the cases and there is no precedent either way. It is an amendment that has been called up this evening. There has been, I am informed, and I know there has been none while I have been here, no real debate on reasons why that ballot should be counted one way or the other.

Now, that is reason No. 1. I think we ought to debate these things before we by unanimous consent start to apply cloture.

The second reason is this, if we refer to the resolution, page 2, lines 15 through 18, the Rules Committee asked us to decide this question:

> Is it the sense of the Senate that, with respect to all ballots on which the committee vote is tied, the ruling of the highest authority of the State of New Hampshire shall remain in effect?

Now, if New Hampshire took certain action and there was not a majority of the Rules Committee that overruled it, would not that stand?

If we have a tie on this floor, it counts as no vote. If there is a motion to reconsider and there is a tie, it is a no vote. If someone offers an amendment and it is a tie, it is no vote.

I do not know all the history of all these items that occurred in the Rules Committee, but they have asked us to make such a determination and that determination is very material to this item they have just brought up in the last few minutes, very material.

If we decide this first, then we have confused the issue in reference to this question that the Rules Committee asked us to vote on.

Mr. McCLURE. Will the Senator from Nebraska yield?

Mr. CURTIS. I do not have the floor.

Mr. GRIFFIN. Will the Senator yield to me for an observation?

Mr. CANNON. I have the floor. I yield to the Senator.

Mr. GRIFFIN. If I might, I would like to state it the other way, that if we vote on that proposition first, as we should, because it is in section 1 and comes ahead of section 2 which enumerates the ballots, and if the Senate should answer this question in the affirmative, that it is the sense of the Senate with respect to tie ballots the ruling of the highest authority of New Hampshire shall stand, then we will not have to look at any of the ballots in section 2 because the ruling of the Ballot Law Commission with respect to that particular ballot Mr. CRANSTON has offered the amendment about, we would not have to pass upon it.

So we are taking an action here that we might not have to take.

Mr. CANNON. Yes. I may say to the Senator that is exactly the argument that I used against the amendment of the Senator from Michigan and the Senator from Pennsylvania that was defeated just a little while ago because the argument there on that was that until we act on the "skip" ballots, we did not know what we were trying to go back to retrieve, and it might become moot. We might say that every one of those "skip" ballots should be Wyman votes, and if we do, then the question is moot.

That is the same argument I made. I wish the Senator would have made it to himself a few minutes ago and he might have voted with me on that particular issue.

I may say also, before I lose track of this and forget about it, the Senator from Pennsylvania also related to ballot No. 112, which he says we took away from Mr. Wyman in a similar situation.

I would like to read the record on ballot No. 112, and this is under No. 112:

Mr. BLAIR. Mr. Chairman, this is a ballot on which the voter apparently made a mistake. He voted by checkmarks—he has eight valid checkmarks.

And in the Republican column there were checkmarks. He has drawn a line through all the checkmarks and written the word "void" above them.

There was once a checkmark in Mr. Wyman's square. There are two lines through that square. There is no vote for Mr. Durkin or Mr. Chimento, but I think the intent of this voter is clear. He intended to void all the votes he had made in the Republican column, including Mr. Wyman's, and I think it should be a no vote.

Mr. VAN LOAN. Gentlemen, this is, I think, a very difficult ballot. And Mr. Blair I think is characterizing this ballot in one fashion, which is probably inaccurate. It is for you gentlemen to decide.

But he has suggested to you that the voter wrote a line down this column and wrote the word "void". If you will examine this ballot very carefully, you will note that there are double votes. There is a double vote in the Governor's race, there's a double vote in the representative for the general court race, and there is a double vote in the register of probate race.

The voter had double voted in some races. There is no double vote in the U.S. Senate race and there is no double vote in a lot of other races.

We unfortunately have a lot of very uninformed voting officials in New Hampshire——

Now, this is Mr. Van Loan speaking, not me:

and they do silly and unfair things to people's ballots.

And I suggest that an election official wrote that down there and wrote "void" because he was referring to double votes.

The CHAIRMAN. The clerk will call the roll.

Now, I will bet we cannot guess what the vote was on that particular ballot that supposedly we took away from Mr. Wyman. I will read it:

[The committee vote was unanimous for "no vote."]

Now, that is ballot No. 112 we took away from Mr. Wyman. The committee vote was unanimous for no-vote.

Mr. HUGH SCOTT. Will the Senator yield?

Mr. CANNON. Certainly.

Mr. HUGH SCOTT. What we are arguing is that here we had the slash marks and the line coming through the Republican column, and we all agree, and that is why it is not among the ties, that it was a no-vote.

Now, up here on the board we have No. 120, which to that extent, putting aside the fact that there was some double vote, but as far as the U.S. Senate was concerned and most of the places were the same, or slash marks on 120, the same old line running down, and now the argument of the Senator from California is that we should count that for Mr. Durkin.

The committee unanimously refused to count a similar ballot for Mr. Wyman, and that is why I say it is inconsistent.

I may not have stated it very clearly, and as I look back on it I do not think I did, but that is why it is inconsistent.

Here, we all joined in knocking out ballot No. 112 for Mr. Wyman.

Mr. NUNN. Will the Senator yield?

Mr. CANNON. Yes.

Mr. NUNN. Does the Senator have a copy?

Mr. HUGH SCOTT. Yes, and I will send it to the Senator.

Mr. CANNON. I have the floor.

The other ballot referred to by the distinguished chairman from Pennsylvania was 123, so I would like to read about ballot No. 123:

Mr. BROWN. Mr. Chairman, for Mr. Wyman I will stipulate that this should be counted a good vote for Mr. Durkin, although there is an equally good X in Mr. Wyman's box, which has been blacked out, in my judgment.

The CHAIRMAN. No. 123 is stipulated for Mr. Durkin. Dr. Riddick is authorized to cast a unanimous ballot for Mr. Durkin.

Now, those are the two votes that the Senator said we took away from Mr. Wyman.

Mr. HUGH SCOTT. I did not say ballot No. 123.

Mr. CANNON. Yes, I wrote it down very carefully, 112 and 123.

Mr. HUGH SCOTT. 112 and 343.

I will show the Senator what I was reading from, 343.

Mr. CANNON. Well, 123 was what I wrote down.

Mr. HUGH SCOTT. Yes.

The PRESIDING OFFICER. What is the will of the Senate? The Senator from Nevada is recognized.

Mr. CANNON. Mr. President, I was still trying to look at ballot 343. It does not appear to me that ballot 343 is anywhere close to the proposition advanced by the Senator from Pennsylvania.

I may say again on 343, and I have my place now, on 343 the vote was unanimous, a unanimous committee vote, as a no-vote in that particular case. So there was no question about taking any ballot away from anybody. It was a unanimous vote of the committee on 343.

Mr. HUGH SCOTT. If the Senator will yield, I point out that is my point. On this ballot we are arguing that when these situations happened in the Democratic column, we are being asked to count that vote as a vote for Durkin. I am citing two situations that appeared in the Republican column where the committee unanimously, on both sides, agreed that it could not be counted for Wyman.

We are saying that on these two ballots they would not let them go to Wyman, and we agreed, yet where there is a similar ballot they are trying to argue that should go to Durkin and we are saying they are inconsistent. That is the point I am making.

Mr. ROBERT C. BYRD. Mr. President, can we determine whether or not there will be another rollcall vote tonight?

I would ask unanimous consent that rollcall votes occur——

Mr. CANNON. We had an objection on the part of the minority—not on the part of the distinguished minority leader, as he was willing to agree—an objection to having the vote 1 hour after the cloture tomorrow and bringing in the ballots in the meantime. I am willing to agree to any reasonable time limit on it.

I am willing to bring the ballots in and let everybody look at the ballots before they make up their mind.

I think, as the Senator from Connecticut has said, he is convinced now that—well, the photocopy of the ballot is on the board. Maybe we can vote without bringing the ballot in, if that was the objection on the part of the minority. I am not certain.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, so that Senators will know what the outlook is for the remainder of the day, I ask unanimous consent that a vote occur on the pending question at 6 p.m. today.

Mr. CURTIS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, that being the case, there will be no further rollcall votes today.

Mr. President, will the distinguished chairman yield further?

Mr. CANNON. I yield.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon S. Res. 166, relating to the determination of the contested election for a seat in the United States Senate from the State of New Hampshire.

Mike Mansfield	Dale Bumpers
Robert C. Byrd	Ernest F. Hollings
Alan Cranston	Philip A. Hart
Jennings Randolph	Edmund S. Muskie
Richard "Dick" Stone	James Abourezk
Clairborne Pell	George S. McGovern
Wendell H. Ford	John O. Pastore
Birch Bayh	Daniel K. Inouye
Frank Church	

DETERMINATION OF SENATE ELECTION IN NEW HAMPSHIRE

The Senate continued with the consideration of the resolution (S. Res. 166) relating to the determination of the contested election for a seat in the U.S. Senate from the State of New Hampshire.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HANSEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. What is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from California (Mr. CRANSTON).

Is there a sufficient second?

Mr. CRANSTON. I ask for the yeas and nays.

The PRESIDING OFFICER. Will those Senators wishing to second the rollcall vote request raise their hands?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, may I ask unanimous consent that Miss Louise M. McPherson, of the staff of the Rules Committee, be admitted to the floor of the Senate during the remainder of debate on the New Hampshire contest?

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

Mr. CANNON. I yield.

TIME-LIMITATION AGREEMENT—H.R. 5398

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield for a unanimous-consent request?

Mr. CANNON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I have a unanimous-consent request which has been cleared with the distinguished Senator from Wisconsin (Mr. PROXMIRE) and I understand with the distinguished Senator from Texas (Mr. TOWER), that there be a 30-minute time limitation on a bill which is at the desk, which deals with the subject of housing, which has been prepared subsequent to the President's veto of the housing measure.

I ask unanimous consent that there be a time limit on that bill of 30 minutes to be equally divided between Mr. PROXMIRE and Mr. TOWER, with the understanding that if there is a rollcall vote on final passage that rollcall vote will occur tomorrow immediately following the vote on cloture. I reserve the right to object momentarily.

Mr. GRIFFIN. Reserving the right to object—Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withhold that momentarily?

Mr. GRIFFIN. I withhold.

Mr. CRANSTON. Will the Senator yield to me for a moment.

Mr. CANNON. I yield.

(Subsequently the following proceedings occurred:)

Mr. HANSEN. What is the consent request?

Mr. ROBERT C. BYRD. The request was that there be a 30-minute time limitation on the housing bill equally divided between Mr. PROXMIRE and Mr. TOWER and if there is a rollcall vote on final passage, that rollcall vote occur tomorrow, immediately following the rollcall vote on the cloture motion.

I would have to also include in that request that there be a time limitation on any amendment of 20 minutes, to be equally divided in accordance with the usual form, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. 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.

Mr. ROBERT C. BYRD. Now, Mr. President, I renew my request with respect to H.R. 5398.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for routine morning business so that statements, bills, resolutions, and so forth may be introduced by Members.

The PRESIDING OFFICER. Does the Senator from Nevada yield the floor for that purpose?

Mr. CANNON. I yield.

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

ORDER FOR A MESSAGE FROM THE HOUSE ON H.R. 8030 TO BE HELD AT THE DESK TEMPORARILY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House of Representatives on H.R. 8030 be held at the desk temporarily, pending further disposition.

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGES FROM THE HOUSE

At 10:05 a.m., a message from the House of Representatives delivered by Mr. Berry, 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. 7709. An act to continue for a temporary period the existing suspension of duty on certain istle;

H.R. 7710. An act to amend the Tariff Schedules of the United States to provide duty free treatment to watches and watch movements manufactured in any insular possession of the United States if foreign materials do not exceed 70 percent of the total value of such watches and movements;

H.R. 7715. An act to extend until the close of June 30, 1978, the period during which certain dyeing and tanning materials may be imported free of duty;

H.R. 7727. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk; and

H.R. 8030. An act to increase the temporary debt limitation until November 15, 1975.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the enrolled bill (H.R. 6387) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 3 months.

The enrolled bill was subsequently signed by the President pro tempore.

At 1:12 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House disagrees to the amendments of the Senate to the bill (H.R. 6900) to provide an additional 13 weeks of benefits under the emergency unemployment compensation program and the special unemployment assistance program, to extend the special unemployment assistance program for 1 year, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. BURKE of Massachusetts, Mr. BURLESON of Texas, Mr. CORMAN, Mrs. KEYS, Mr. SCHNEEBELI, and Mr. STEIGER of Wisconsin were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 7706. An act to suspend the duty on natural graphite until the close of June 30, 1978;

H.R. 7716. An act to amend the Tariff Schedules of the United States to suspend the duty on certain forms of zinc until the close of June 30, 1978;

H.R. 7728. An act to suspend until the close of October 31, 1975, the duty on catalysts of platinum and carbon used in producing caprolactam;

H.R. 7731. An act to suspend the duty on open-top hopper cars exported for repairs or alterations on or before June 30, 1975;

H.R. 8070. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; and

H.R. 8122. An act making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

At 3:13 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the bill (H.R. 4485) to provide for greater homeownership opportunities for middle-income families and to encourage more efficient use of land and energy resources, returned by the President of the United States with his objections, on reconsideration by the House and two-thirds of the Members thereof not having voted to pass same, failed of passage.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EAGLETON, from the Committee on Labor and Public Welfare, without amendment, and without recommendation:

H.R. 3922. An act to amend the Older Americans Act of 1965 to establish certain social services programs for older Americans and to extend the authorizations of appropriations contained in such act, to prohibit discrimination on the basis of age, and for other purposes (Rept. No. 94-254).

By Mr. EAGLETON, from the Committee on Labor and Public Welfare, with an amendment:

S. 1425. A bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations contained in such act, and for other purposes (Rept. No. 94-255).

FIRST REPORT ON THE CONDUCT OF MONETARY POLICY (REPT. NO. 94-256)

Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs, submitted a special report entitled "First Report on the Conduct of Monetary Policy," pursuant to House Concurrent Resolution 133, 94th Congress, 1st session, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. EASTLAND, from the Committee on the Judiciary:

Michael M. Uhlmann, of Virginia, to be an Assistant Attorney General.

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

HOUSE BILLS REFERRED

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

H.R. 7709. An act to continue for a temporary period the existing suspension of duty on certain istle;

H.R. 7710. An act to amend the Tariff Schedules of the United States to provide duty free treatment to watches and watch movements manufactured in any insular possession of the United States if foreign materials do not exceed 70 percent of the total value of such watches and movements;

H.R. 7715. An act to extend until the close of June 30, 1978, the period during which certain dyeing and tanning materials may be imported free of duty;

H.R. 7727. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk;

H.R. 7706. An act to suspend the duty on natural graphite until the close of June 30, 1978;

H.R. 7716. An act to amend the Tariff Schedules of the United States to suspend the duty on certain forms of zinc until the close of June 30, 1978;

H.R. 7728. An act to suspend until the close of October 31, 1975, the duty on catalysts of platinum and carbon used in producing caprolactam; and

H.R. 7731. An act to suspend the duty on open-top hopper cars exported for repairs or alterations on or before June 30, 1975; to the Committee on Finance.

H.R. 8070. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and office for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; and

H.R. 8122. An act making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; to the Committee on Appropriations.

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. MANSFIELD:

S. 2005. A bill to amend the provisions of title 18, United States Code, relating to the release of an individual charged with an offense involving the use of a firearm, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 2006. A bill to amend the Internal Revenue Code of 1954 to provide that members of reserve components of the armed forces who are not serving on active duty or as National Guard technicians may establish individual retirement accounts. Referred to the Committee on Finance.

S. 2007. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for wages paid in new jobs. Referred to the Committee on Finance.

By Mr. TUNNEY:

S. 2008. A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information has been collected and to control the collection and dissemination of criminal justice information, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. EASTLAND (for himself and Mr. STENNIS):

S. 2009. A bill to amend the Federal Seed Act (53 Stat. 1275), as amended. Referred to the Committee on Agriculture and Forestry.

By Mr. JACKSON (by request):

S. 2010. A bill providing for the improvement of law enforcement and the determination of civil and criminal jurisdiction and law in Indian country, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. SCHWEIKER (for himself and Mr. JAVITS) (by request):

S. 2011. A bill to extend appropriations authorizations for emergency medical services systems, and for other purposes. Referred to the Committee on Labor and Public Welfare.

S. 2012. A bill to amend the Public Health Service Act and the National Research Service Award Act of 1974 to strengthen and improve the program of National Research Service Awards, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HANSEN:

S. 2013. A bill to authorize the Secretary of the Interior to engage in a feasibility investigation of a potential resource development. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONDALE (for himself, Mr. PHILIP A. HART, Mr. WILLIAMS, Mr. PACKWOOD, Mr. JAVITS, Mr. STONE, Mr. HUMPHREY, and Mr. KENNEDY):

S. 2014. A bill entitled "The Emergency Mortgage Relief Act of 1975." Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. EAGLETON (for himself, Mr. ABOUREZK, Mr. BAYH, Mr. BROOKE, Mr. CANNON, Mr. CASE, Mr. CLARK, Mr. CRANSTON, Mr. CULVER, Mr. DOLE, Mr. EASTLAND, Mr. FANNIN, Mr. HASKELL, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. JOHNSTON, Mr. KENNEDY, Mr. LEAHY, Mr. MCINTYRE, Mr. METCALF, Mr. MONDALE, Mr. MOSS, Mr. PACKWOOD, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. HUGH SCOTT, Mr. SPARKMAN, Mr. SYMINGTON, Mr. TAFT, Mr. THURMOND, Mr. TOWER, Mr. TUNNEY, Mr. WILLIAMS, and Mr. YOUNG):

S. 2015. A bill to amend title 39, United States Code, to assure that certain publications of institutions of higher education continue to qualify as second-class mail. Referred to the Committee on Post Office and Civil Service.

By Mr. ROTH:

S. 2016. A bill entitled "Emergency Mort-

gage Relief Payments." Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MANSFIELD:

S. 2005. A bill to amend the provisions of title 18, United States Code, relating to the release of an individual charged with an offense involving the use of a firearm, and for other purposes. Referred to the Committee on the Judiciary.

(The remarks of Mr. MANSFIELD on the introduction of the above bill are printed earlier in today's RECORD.)

By Mr. THURMOND:

S. 2006. A bill to amend the Internal Revenue Code of 1954 to provide that members of reserve components of the Armed Forces who are not serving on active duty or as National Guard technicians may establish individual retirement accounts. Referred to the Committee on Finance.

Mr. THURMOND. Mr. President, the Employee Retirement Income Security Act of 1974 introduced a new concept into the pension area—the individual retirement account—IRA. This concept is contained in section 408 of the Internal Revenue Code of 1954. Section 408 provides that eligible individuals may establish an IRA and place up to 15 percent of their earned income, but not in excess of $1,500 each year, into these special designated accounts, and take their contribution as a deduction for tax purposes.

In general, section 219 of the Internal Revenue Code provides that tax deductible contributions to IRA's are not allowed to individuals who are active participants in a plan established or maintained by the U.S. Government or a State, or who are active participants in a qualified plan established under section 401(a) of the Internal Revenue Code.

Mr. President, as you may be aware, members of the reserve components of our Armed Forces accrue retirement points by virtue of their membership and participation in our Reserve forces. Should these individuals ultimately satisfy all the necessary requirements, they may eventually qualify for benefits under the Reserve Retirement Act and any applicable State retirement program.

It has recently come to my attention that the Internal Revenue Service is taking the position that National Guard and Reserve personnel are not eligible to establish individual retirement accounts.

The Service asserts that participation in the Reserve retirement plan alone constitutes active participation in a Government plan sufficient to deny the favorable tax benefits accorded by the IRA. The Internal Revenue Service points to the legislative history of ERISA—report of Committee on Ways and Means, House of Representatives, on H.R. 12855, Report No. 93-807 at page 129—as indicating that an individual is an active participant in a plan if he is accruing benefits, whether or not such benefits are forfeitable. Short of a specific exemption for members of the Reserve components, the IRS apparently will not make a reasonable and justified interpretation by allowing our citizen soldiers to use IRA's. I cannot believe the Congress ever intended this inequitable result—it appears that what the bureaucrats will not accomplish administratively, we must do legislatively. This area is in urgent need of clarification.

The blatant discrimination existing against our reservists and National Guardsmen can be illustrated by the example of two employees, one a member of a Reserve component and one who is not. If the employer of these two employees does not have a pension plan, or has one but these individuals choose not to participate, the reservist cannot set up an IRA, but the nonreservist can. This prohibition exists even though the reservist's participation in the Reserve retirement program is incidental in relation to his full-time employment and even though the Reserve retirement system offers no vested interest until the participant has 20 years of service and no realization of benefits until he attains age 60. Furthermore, the amount of retired pay may be very limited and many members may not be interested in Reserve retirement. The accrual of retirement points as a result of the reservist's participation in a Reserve component should not prejudice him. Does this Congress want to discourage membership in the Reserve components of our Armed Forces just at the time when we are relying more and more on the Reserves and at a time when they are already experiencing recruiting problems? I would hope not.

Mr. President, I think it appropriate to mention a major problem with the Employee Retirement Income Security Act of 1974 that may well relate directly to the discriminatory treatment of our Reserves that I have pointed out today. It is feared the growing number of retirement plan terminations that are occurring across our Nation are a result of the expense and bureaucratic redtape of complying with the extensive reporting and disclosure requirements of ERISA. This is a serious problem since ERISA appears, in this instance, to actually be working to the detriment of those it was intended to help—the employees. It is my hope that legislation exempting small business from many of the provisions of ERISA will be favorably acted upon by this Congress in the near future. Meanwhile, these plan terminations will result in additional situations where a reservist or National Guardsman will want to establish an IRA for several reasons, including the deposit of distributions from the terminated plan to take adavntage of the tax-free rollover provisions of ERISA.

Mr. President, I send to the desk a bill which would amend section 219 of the Internal Revenue Code to remove the prohibition that presently exists for members of our Reserve components from receiving the tax benefits of the individual retirement account. I call on my colleagues to give prompt and favorable consideration to this legislation and 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. 2006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 219(c) of the Internal Revenue Code of 1954 (relating to definitions and special rules for retirement savings deduction) is amended by adding at the end thereof the following:

"(3) PARTICIPANTS IN GOVERNMENT PLANS FOR RESERVE COMPONENT MEMBERS.—A member of a reserve component of the armed forces (as defined in section 261(a) of title 10) is not considered to be an active participant in a plan described in subsection (b)(2)(A)(iv) solely because he is a member of a reserve component unless—

"(A) he is serving on active duty (other than for training), or

"(B) he is employed as a National Guard technician under section 709 of title 32."

SEC. 2. The amendment made by this Act applies to taxable years beginning after December 31, 1974.

By Mr. THURMOND:

S. 2007. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for wages paid in new jobs. Referred to the Committee on Finance.

Mr. THURMOND. Mr. President, on March 10 of this year, the president of the National Small Business Association testified before the Finance Committee in the course of its consideration of the Tax Reduction Act of 1975. President Stewart made an excellent proposal in his statement, outlining a plan which could put up to a million people to productive work in business and not on government payrolls. Today, I am introducing legislation to implement that plan.

The job creation tax credit plan would allow businesses to take a tax credit of 50 percent of the cost of up to two new employees, in newly created jobs, with a maximum credit of $20,000. One of the most attractive features of this plan is that it will not cost a cent unless a job is actually created. We do not have to guess at this plan's effectiveness. If it does not work, it does not cost.

This is a better idea than loading down government payrolls. It will also help many thousands of people learn useful jobs in business—jobs that will still be available when the economy can support them. No retraining will be required, for on-the-job training will already have taken place.

The investment tax credit does not reach many smaller businesses, but the job creation plan is actually designed to direct help not only to jobless people but also to small businesses, who are finding it hard to finance the expansion moves essential to economic recovery.

I ask unanimous consent that this bill be printed in the RECORD and referred to the appropriate committee.

I also ask unanimous consent that articles from the Daily News of Palatka, Fla., and the Herald of Biloxi-Gulfport, Miss., be printed in the RECORD.

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

S. 2007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chap-

ter 1 of the Internal Revenue Code of 1954 (relating to credits allowed) is amended by redesignating section 45 as 45A and by inserting after section 44 the following new section:

"SEC. 45. NEW JOBS.

"(a) GENERAL RULE.—There is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to one-half of the amounts paid or incurred by the taxpayer during the taxable year in a trade or business as wages to not more than 2 new employees in that trade or business.

"(b) LIMITATIONS.—

"(1) DOLLAR AMOUNT.—The amount of the credit allowed by subsection (a) for the taxable year may not exceed $20.000.

"(2) DATE ON WHICH WAGES ARE PAID OR INCURRED.—No credit is allowed under subsection (a) for any amounts paid or incurred by the taxpayer as wages after December 31, 1976.

"(3) NUMBER OF EMPLOYEES.—No amount shall be allowed to a taxpayer under subsection (a) with respect to more than two employees.

"(4) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount of the limitation applicable under paragraph (1) is $10,000 rather than $20,000. This paragraph does not apply if the spouse of the taxpayer claims no credit under subsection (a) for the taxable year.

"(5) CONTROLLED GROUPS.—In the case of a controlled group of corporations (as defined in section 1563(a)), the $20,000 amount specified under paragraph (1) shall be reduced for each component member of the group by apportioning $20,000 among the component members of the group in such manner as the Secretary or his delegate shall prescribe by regulations.

"(6) SUBCHAPTER S CORPORATIONS.—In the case of an electing small busines corporation (as defined in section 1371)—

"(A) the amount of credit allowable under subsection (a) for each taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

"(B) any person to whom any amount has been apportioned under subparagraph (A) shall be treated (for purposes of this section) as the taxpayer with respect to the wages paid for which the credit is allowed.

"(7) ESTATES AND TRUSTS.—In the case of an estate or trust—

"(A) amounts allowable as a credit for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

"(B) any beneficiary to whom amounts have been apportioned under subparagraph (A) shall be treated (for purposes of this section) as the taxpayer with respect to the wages paid for which the credit is allowed.

"(8) LIMITATIONS WITH RESPECT TO CERTAIN OTHER PERSONS.—In the case of—

"(A) an organization to which section 593 applies;

"(B) a regulated investment company or a real estate investment trust subject to taxation under subchapter M (section 851 and following); and

"(C) a cooperative organization described in section 1381 (a),

rules similar to the rules provided in section 46(e) shall apply under regulations prescribed by the Secretary or his delegate.

"(9) Geographical limitation.—No item shall be taken into account under subsection (a) with respect to any expense paid or incurred by the taxpayer with respect to employment outside the United States.

"(c) RECAPTURE OF CREDIT FOR CERTAIN TERMINATIONS OF EMPLOYMENT.—

"(1) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate if the employment of any employee with respect to whom amounts are taken into account under subsection (a) is terminated by the taxpayer at any time during the first twelve months of such employment (whether or not consecutive) or before the close of the twelfth calendar month after the calendar month in which such employee completes twelve months of employment with the taxpayer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the sum of the amounts allowed under subsection (a) for such taxable year and all prior taxable years attributable to wages paid to that employee.

"(2) RECAPTURE NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) does not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of such employment, unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGE IN FORM OF BUSINESS, ETC.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381 (a) applies, if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(3) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any other credit allowable under this subpart.

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

"(1) WAGES.—The term 'wages' means cash remuneration (including amounts deducted and withheld).

"(2) NEW EMPLOYEE.—The term 'new employee' means an individual first employed by the taxpayer after June 30, 1975, whose employment does not fill a vacancy existing prior to July 1, 1975, and the employment of whom does not displace any other individual from employment by the taxpayer.

"(e) APPLICATION WITH OTHER SECTIONS.—No credit is allowable under subsection (a) for any amount for which a deduction is claimed under section 162 or 212, or for which a credit is claimed under section 40, for the taxable year.

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

(b)(1) Section 56(a)(2) of such Code (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (vi), by striking out the semicolon and "and" at the end of clause (vii) and inserting in lieu thereof a comma and "and", and by inserting after clause (vii) the following new clause:

"(viii) section 45 (relating to credit for new jobs); and"

(2) Section 56(c)(1) of such Code (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (F), by striking out "exceed" at the end of subparagraph (G) and inserting in lieu thereof "and", and by inserting after subparagraph (G) the following new subparagraph:

"(H) section 45 (relating to credit for new jobs), exceed".

(3) Section 6096(b) of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44" and inserting in lieu thereof a comma and "44 and 45".

(c) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 45. New jobs.
"Sec. 45A. Overpayment of tax.".

SEC. 2. The amendments made by the first section of this Act apply to taxable years ending after the date of enactment of this Act.

[From the Biloxi-Gulfport (Miss.) Herald, March 23, 1975]

ECONOMIC PLAN MAY BE TOO SENSIBLE

(By Robert McHugh)

The professors of economics and the politicians in Washington are applying poultices of every description to the wounds in the nation's economy.

Some of them sound like the western cowboys' favorite remedy for healing gaping sores left by the horn of a steer—five cc's of chewing tobacco.

It is indeed a gaudy mixture being prepared on Capitol Hill. We are looking at a $5.9 billion public jobs bill, a billion or more for health insurance for the unemployed, and a $2.5 billion railroad rebuilding plan, along with the tax cut which nobody objects to. But will all of this help or is it like the snake oil the oldtime medicine men used to con our grandparents with? Only time will tell.

Meanwhile, the small voice of the National Small Business Assn. has been raised. What this organization is proposing is, of course, somewhat self-seeking, but in today's world that should surprise no one.

What is particularly intriguing about the NSBA suggestion is that it sounds sensible and just might work.

The organization has asked the Senate to consider "job creation credit," which could lead to swift hiring of up to two new employees by each of the nation's small businesses.

The plan would work this way: Small businesses would be permitted to hire one or two new employees and take a tax credit of up to 50 per cent of the cost of the added help, up to a maximum of $20,000.

The NSBA had some other thoughts for the Senators, too, but the job proposal sounded best. Other suggestions were for a cut in taxes on those several million firms which earn less than $25,000 per year, an increased investment credit up from the current 10 per cent to 20 per cent for manufacturers who are small by Small Business Administration standards, and incentive tax writeoffs for small businesses just getting started during this time of a soft national economy.

All but the jobs part of the package is little more than whistling in the dark. Big business gets the breaks in Washington. Witness the futile efforts to eliminate the oil-depletion allowance.

But why shouldn't Congress take the NSBA jobs plan seriously? It would provide useful jobs in the private sector, which indeed could and probably would become permanent as the economy turns upward later this year.

And what is important here is that the jobs would be useful. They would come from private firms contributing to the growth of the Gross National Product, not from the federal government trying to create jobs for the sake of creating jobs. And the type of

jobs which the government will provide aren't likely to be the productive type which boost the GNP.

In addition, the NSBA proposal would become a training school for thousands. Those employed would be learning useful skills in a wide variety of occupations.

Raising the skills of the employable so that they can go on to better jobs, increasing the GNP and the simple act of creating jobs are widely believed to be the remedy for recession.

The NSBA job plan would do all three of these things, probably at a smaller price than the plans being rushed through Congress.

But don't make any bets that the plan will get off the ground. It is too sensible and it comes from small business, which has a smaller voice than big business whose shouts are usually heard loud and clear in the halls of Congress.

[From the Palatka (Fla.) Daily News, March 18, 1975]

DISTANCE FROM WASHINGTON TO GRASSROOTS OFTEN FAR

(By Lora Sinks Britt)

The long distance between Washington and the grass roots all over this country was never better pointed out than recent comments by Secretary of the Treasury William Simon before a panel of newsmen.

Comfortably seated in an atmosphere-controlled room and talking about unemployment and the economy in general, Mr. Simon said that the average income for people of the United States is $14,000 a year and that President Ford would surely see about the unemployment problem. Wasn't he already doing so with the many manpower programs in effect?

Someone should tell Mr. Simon that while $14,000 may be the average American income, it takes six $8,000 incomes and one $50,000 income to come up with that average. In many areas of the country, including most of the South, $8,000 incomes are far more "average" than $14,000 incomes. In an area like Washington where incomes are high, it probably is hard for Mr. Simon to realize that many families never see even $8,000 a year.

Wasn't Mr. Ford already doing something about unemployment with the many manpower programs in effect? asked Mr. Simon rhetorically when questioned by the panel.

These words might have allayed the Washington reporters whose world also revolves around the nation's capital; however, not those who are in direct contact at the grassroots.

In Putnam County, for example, during February, 868 unemployed make application for unemployment claims. This number did not include the unemployed who did not file claims. One hundred seventy-five of these were new claims. At the same time, under CETA, a federal program created especially for the unemployed, 7 positions were made available and filled. At this rate, the government's program will hardly be a drop in the proverbial bucket.

Undoubtedly, Mr. Simon and others in Washington mean well in their observations about the country's economy, but with statements like those of the Treasury Secretary heard on the panel discussion, it is hard to believe that they have a true picture.

The country must look to other ways to resolve the recession, because creating jobs by the government will not do it all, nor is it giving substantial assistance, if CETA figures are a gauge.

One way to generate up to a million new jobs in private business has been proposed by the National Small Business Association (NSB). Milton D. Stewart, president of NSB, has asked the Senate Finance Committee to provide a "job creation credit" which could lead to the swift hiring of up to two new employes in thousands of small businesses.

Under the NSB plan, after Congress enacted legislation which would authorize the plan, small businesses would be notified that they could hire one or two new employes and take a tax credit of up to 50 per cent of the cost of the new employes, up to a maximum of $20,000.

Also included in the plan would be a special tax cut for several million companies that earn less than $25,000 a year, provide a 20 per cent investment credit for several hundred thousand small manufacturers, for thousands of new businesses, being formed despite the recession, grant a write-off of up to $25,000 a year for the first three years.

Stewart put the present situation well when he said "As the Federal Reserve Board kept slamming harder and harder on its worncut brakes, trying to hold the big business juggernaut, as usual it did not seem to notice that its small business passenger was half-way through the windshield. It is now time for Congress to enact 'seat belt' legislation for small businesses."

"By the time data collectors catch up with small business reality," he said, "it is far, far too late for federal counter-cyclical action."

Which is true. By the time that unemployment figures go from the grassroots to Washington level through the mounds of paper work required in our bureaucracy, they are long since outdated. Meanwhile, the actual February unemployment figure at the national level could be far higher, or it could even be lower.

Sometimes, it can be a long way—and a long time—between Washington and the grass roots.

By Mr. TUNNEY:

S. 2008. A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information has been collected and to control the collection and dissemination of criminal justice information, and for other purposes. Referred to the Committee on the Judiciary.

Mr. TUNNEY. Mr. President, today Congressman DON EDWARDS of California, chairman of the House Judiciary Subcommittee on Civil and Constitutional Rights, and I are introducing identical bills to control the collection and dissemination of criminal justice information and to protect the privacy and the constitutional rights of the individuals upon whom such information has been collected.

This legislation represents the culmination of 4 years of intensive investigation by both subcommittees into the abuses created by the increasingly automated dissemination of criminal justice information. The present bill is a compromise between the provisions of the two bills introduced earlier this year in both the House and Senate—H.R. 61, S. 1428 and H.R. 62, S. 1427—measures which were originally introduced last year by the Justice Department and Senator Ervin.

The new legislation incorporates the best features of the Justice Department and Ervin bills. It represents an awareness of both the legitimate needs of law enforcement to have timely and accurate information and the constitutional right of American citizens to have their privacy protected. It is stronger than the old Justice Department bill in its protection of the individual. It is less complex than the Ervin bill and more conducive to the preservation of efficient law enforcement.

The purpose of the legislation is to provide a uniform body of law governing the exchange of criminal justice records, intelligence and investigative information and the release of such information to the public. It sets out specific restrictions on the dissemination of such information to other agencies. In accordance with its provisions, only conviction records can be freely distributed to law enforcement agencies. Acquittal and arrest records can be dispersed for specified purposes and to authorized personnel.

The legislation requires the sealing of criminal records that are out of date or that relate to arrests that are not followed by criminal charges or to arrests followed by charges not prosecuted in a a timely manner. It gives any individual the right to review criminal records concerning him or her which are maintained by law enforcement agencies and the right to institute proceedings to correct or modify inaccurate or incomplete information. It includes civil remedies for persons aggrieved by violations of any of its provisions and criminal penalties for those who knowingly violate the act.

The bill severely limits the types of criminal records that can be made available to such law enforcement agencies as credit bureaus, State licensing bureaus or employment agencies, and includes restrictions on the purposes for which these agencies can use the records. It also contains provisions limiting the circumstances under which intelligence and investigative information concerning an individual may be collected and maintained and places strict controls on the use and dissemination of this information to other agencies.

The measure provides for the creation of a Commission on Criminal Justice Information with the responsibility for implementation and enforcement of the act. The members of the Commission are to be appointed by the President and confirmed by the Senate, and a majority of the membership is to be drawn from State and local law enforcement agencies, the principal users of the information regulated by the act. The Commission will have the authority to issue regulations governing the collection, use and dissemination of criminal justice information by all agencies subject to the act, including Federal agencies. Specifically, it will have the authority to decide such controversial issues as the extent to which Federal law enforcement agencies may perform telecommunications and identification functions for interstate systems.

The legislation recognizes the principle that each State should be free to regulate the collection, use and dissemination of criminal records consistent with uniform national standards. It permits each State to establish a board or agency to enforce the provisions of the act within that State. The national Commission would defer to such a board with respect to enforcement of the act. In addition, the bill permits States with laws that are stricter than the Federal law to enforce their own provisions concerning transactions within that State.

Finally, like its two predecessors, the measure guarantees that the public and the press will continue to have access to police blotters and court records, information which has traditionally been within the public domain.

Because of the increasing use of computers for processing and transmitting criminal justice information, the need for this legislation is critical. The recent Watergate revelations have made us all painfully aware that raw intelligence and investigative files in the hands of the wrong people including some Government officials can result in grave injustices to innocent people. In addition, a number of court cases in the last year have underscored the fact that abuses of individual liberties do occur from widespread dissemination of inaccurate or incomplete criminal records.

Hearings on this bill are scheduled to be held by the House subcommittee on July 14 and 17 and by the Senate subcommittee on July 15 and 16. Congressman EDWARDS and I are conducting these hearings in an effort to accommodate the Justice Department and State and local criminal justice agencies in their desire to have a specific criminal justice bill enacted before September 27, 1975, when the Privacy Act of 1974 goes into effect.

Mr. President, I ask unanimous consent that the criminal justice data banks legislation be printed in the RECORD.

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

S. 2008

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 "Criminal Justice Information Control and Protection of Privacy Act of 1975."

TITLE I—PURPOSE AND SCOPE

FINDINGS

SEC. 101. The Congress hereby finds and declares that—

(a) The responsible maintenance, use, and dissemination of complete and accurate criminal justice information among criminal justice agencies is recognized as necessary and indispensable to effective law enforcement and criminal justice and is encouraged.

(b) The irresponsible use or dissemination of inaccurate or incomplete information, however, may infringe on individual rights.

(c) While the enforcement of criminal laws and the regulation of criminal justice information is primarily the responsibility of State and local government, the Federal Government has a substantial and interconnected role.

(d) This Act is based on the powers of the Congress—

(1) to place reasonable restrictions on Federal activities and upon State and local governments which receive Federal grants or other Federal services or benefits, and

(2) to faciliate and regulate interestate commerce.

DEFINITIONS

SEC. 102. As used in this Act—

(1) "Automated" means utilizing electronic computers or other automatic data processing equipment, as distinguished from performing operations manually.

(2) "Dissemination" means any transfer of information, whether orally, in writing, or by electronic means.

(3) "The administration of criminal justice" means any activity by a criminal justice agency directly involved the apprehension, detention, pretrial release, posttrial release, prosecution, defense, adjudication, or rehabilitation of accused persons or criminal offenders or the collection, storage, dissemination, or usage of criminal justice information.

(4) "Criminal justice agency" means a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities but only to the extent that it does so.

(5) "Criminal justice information" means arrest record information, nonconviction record information, conviction record information, criminal history record information, and correctional and release information. The term does not include criminal justice investigative information or criminal justice intelligence information.

(6) "Arrest record information" means notations of arrest, detention, indictment, filing of information, or other formal criminal charge on an individual which does not include the disposition arising out of that arrest, detention, indictment, information, or charge.

(7) "Criminal history record information" means arrest record information and any disposition arising therefrom.

(8) "Conviction record information" means criminal history record information disclosing that a person has pleaded guilty or nolo contendere to or was convicted of any criminal offense in a court of justice, sentencing information, and whether such plea or judgment has been modified or reversed.

(9) "Nonconviction record information" means criminal history record information which is not conviction record information.

(10) "Disposition" means information disclosing that a decision has been made to bring criminal charges or that criminal proceedings have been concluded, abandoned, or indefinitely postponed.

(11) "Correctional and release information" means information on an individual compiled in connection with bail or pretrial or posttrial release proceedings, reports on the physical or mental condition of an alleged offender, reports on presentence investigations, reports on inmates in correctional institutions or participants in rehabilitation programs, and probation and parole reports.

(12) "Criminal justice investigative information" means information associated with an identifiable individual compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific criminal act including information pertaining to that criminal act derived from reports of informants and investigators, or from any type of surveillance. The term does not include criminal justice information nor does it include initial reports filed by a criminal justice agency describing a specific incident, not indexed or accessible by name and expressly required by State or Federal statute to be made public.

(13) "Criminal justice intelligence information" means information associated with an identifiable individual compiled by a criminal justice agency in the course of conducting an investigation of an individual relating to possible future criminal activity of an individual, or relating to the reliability of such information, including information derived from reports of informants, investigators, or from any type of surveillance. This term does not include criminal justice information nor does it include initial reports filed by a criminal justice agency describing a specific incident, not indexed or accessible by name and expressly required by State or Federal statute to be made public.

(14) "Judge of competent jurisdiction" means (a) a judge of a United States district court or a United States court of appeals; (b) a Justice of the Supreme Court of the United States; (c) a judge of any court of general criminal jurisdiction in a State; or (d) for purposes of section 208(b)(5), any other official in a State who is authorized by a statute of that State to enter orders authorizing access to sealed criminal justice information.

(15) "Attorney General" means the Attorney General of the United States.

(16) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

APPLICABILITY

SEC. 103. (a) This Act applies to criminal justice information, criminal justice investigative information, or criminal justice intelligence information maintained by criminal justice agencies—

(1) of the Federal Government,

(2) of a State or local government and funded in whole or in part by the Federal Government,

(3) which exchange information interstate, and

(4) which exchange information with an agency covered by paragraph (1), (2), or (3) but only to the extent of that exchange.

(b) This Act applies to criminal justice information, criminal justice intelligence information and criminal justice investigative information obtained from a foreign government or an international agency to the extent such information is commingled with information obtained from domestic sources. Steps shall be taken to assure that, to the maximum extent feasible, whenever any information subject to this Act is provided to a foreign government or an international agency, such information is used in a manner consistent with the provisions of this Act.

(c) The provisions of this Act do not apply to—

(1) original books of entry or police blotters, whether automated or manual, maintained by a criminal justice agency at the place of original arrest or place of detention, not indexed or accessible by name and required to be made public;

(2) court records of public criminal proceedings or official records of pardons or paroles or any index thereto organized and accessible by date or by docket or file number, or organized and accessible by name so long as such index contains no other information than a cross reference to the original pardon or parole records by docket or file number;

(3) public criminal proceedings and court opinions, including published compilations thereof;

(4) records of traffic offenses maintained by departments of transportation, motor vehicles, or the equivalent, for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' licenses;

(5) records relating to violations of the Uniform Code of Military Justice but only so long as those records are maintained solely within the Department of Defense; or

(6) statistical or analytical records or reports in which individuals are not identified and from which their identities are not ascertainable.

TITLE II—COLLECTION AND DISSEMINATION OF CRIMINAL JUSTICE INFORMATION, CRIMINAL JUSTICE INVESTIGATIVE INFORMATION, AND CRIMINAL JUSTICE INTELLIGENCE INFORMATION, DISSEMINATION, ACCESS, AND USE OF CRIMINAL JUSTICE INFORMATION—CRIMINAL JUSTICE AGENCIES

SEC. 201. (a) With limited exceptions hereafter described, access to criminal justice information, criminal justice investigative information, and criminal justice intelligence information shall be limited to authorized

officers or employees of criminal justice agencies, and the use or further dissemination of such information shall be limited to purposes of the administration of criminal justice.

(b) The use and dissemination of criminal justice information shall be in accordance with criminal justice agency procedures reasonably designed to insure—

(1) that the use or dissemination of arrest record information or nonconviction record information is restricted to the following purposes—

(A) The screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants.

(B) The commencement of prosecution, determination of pretrial or posttrial release or detention, the adjudication of criminal proceedings, or the preparation of a presentence report,

(C) The supervision by a criminal justice agency of an individual who had been committed to the custody of that agency prior to the time the arrest occurred or the charge was filed,

(D) The investigation of an individual when that individual has already been arrested or detained,

(E) The development of investigative leads concerning an individual who has not been arrested, when there are specific and articulable facts which, taken together with rational inferences from those facts, warrant the conclusion that the individual has committed or is about to commit a criminal act and the information requested may be relevant to that act.

(F) The alerting of an official or employee of a criminal justice agency that a particular individual may present a danger to his safety, or

(G) Similar essential purposes to which the information is relevant as defined in the procedures prescribed pursuant to this section; and

(2) that correctional and release information is disseminated only to criminal justice agencies; or to the individual to whom the information pertains, or his attorney, where authorized by Federal or State statute, court rule, or court order.

IDENTIFICATION AND WANTED PERSON INFORMATION

SEC. 202. Personal identification information, including fingerprints, voice prints, photographs and other physical descriptive data, may be used or disseminated for any official purpose, but personal identification information which includes arrest record information or criminal history record information may be disseminated only as permitted by this Act. Information that a person is wanted for a criminal offense and that judicial process has been issued against him, together with an appropriate description and other information which may be of assistance in locating the person or demonstrating a potential for violence, may be disseminated for any authorized purpose related to the administration of criminal justice. Nothing in this Act prohibits direct access by a criminal justice agency to automated wanted person information.

DISSEMINATION, ACCESS AND USE OF CRIMINAL JUSTICE INFORMATION—NONCRIMINAL JUSTICE AGENCIES

SEC. 203. (a) Except as otherwise provided by this Act, conviction record information may be made available for purposes other than the administration of criminal justice only if expressly authorized by Federal or State statute.

(b) Arrest record information indicating that an indictment, information, or formal charge was made against an individual within twelve months of the date of the request for the information, and is still pending, may be made available for a purpose other than the administration of criminal justice if expressly authorized by Federal or State statute. Arrest record information made available pursuant to this subsection may be used pursuant to this subsection may be used only for the purpose for which it was made available and may not be copied or retained by the requesting agency beyond the time necessary to accomplish that purpose.

(c) When conviction record information or arrest record information is requested pursuant to subsections (a) or (b), the requesting agency or individual shall notify the individual to whom the information relates that such information about him will be requested and that he has the right to seek review of the information prior to its dissemination.

(d) Criminal justice information may be made available to qualified persons for research related to the administration of criminal justice.

(e) A criminal justice agency may disseminate criminal justice information, upon request, to officers and employees of the Immigration and Naturalization Service, consular officers, and officers and employees of the Visa Office of the Department of State, who require such information for the purpose of administering the immigration and nationality laws. The Attorney General and Secretary of State shall adopt internal operating procedures reasonably designed to insure that arrest record information received pursuant to this subsection is used solely for the purpose of developing further investigative leads and that no decision adverse to an individual is based on arrest record information unless there has been a review of the decision at a supervisory level.

(f) A criminal justice agency may disseminate criminal justice information, upon request, to officers and employees of the Bureau of Alcohol, Tobacco, and Firearms, the United States Custom Service, the Internal Revenue Service and the Office of Foreign Assets Control of the Department of the Treasury, who require such information for the purpose of administering those laws under their respective jurisdictions. The Attorney General and the Secretary of the Treasury shall adopt internal operating procedures reasonably designed to insure that arrest record information received pursuant to this subsection is used solely for the purpose of developing further investigative leads and that no decision adverse to an individual is based on arrest record information unless there has been a review of the decision at a supervisory level.

(g) The Drug Enforcement Administration of the United States Department of Justice may disseminate criminal record information to federally registered manufacturers and distributors of controlled substances for use in connection with the enforcement of the Controlled Substances Administration Act.

(h) Nothing in this Act prevents a criminal justice agency from disclosing to the public factual information concerning the status of an investigation, the apprehension, arrest, release, or prosecution of an individual, the adjudication of charges, or the correctional status of an individual, if such disclosure is reasonably contemporaneous with the event to which the information relates. Nor is a criminal justice agency prohibited from confirming prior arrest record information or criminal record information to members of the news media or any other person, upon specific inquiry as to whether a named individual was arrested, detained, indicted, or whether an information or other formal charge was filed, on a specified date, if the arrest record information or criminal record information disclosed is based on data excluded by section 103(b) from the application of this Act.

DISSEMINATION, ACCESS, AND USE OF CRIMINAL JUSTICE INFORMATION—APPOINTMENTS AND EMPLOYMENT INVESTIGATIONS

SEC. 204. (a) A criminal justice agency may disseminate criminal justice information, whether or not sealed pursuant to section 208, criminal justice intelligence information, and criminal justice investigative information to a Federal, State, or local government official who is authorized by law to appoint or nominate judges, executive officers of law enforcement agencies or members of the Commission on Criminal Justice Information created under section 301 or any State board or agency created or designated pursuant to section 307, and to any legislative body authorized to approve such appointments or nominations. The criminal justice agency shall disseminate such information concerning an individual only upon notification from the appointing or nominating official that he is considering that individual for such an office, or from the legislative body that the individual has been nominated for the office, and that the individual has been notified of the request for such information and has given his written consent to the release of the information.

(b) A criminal justice agency may disseminate arrest record information and criminal history record information to an agency of the Federal Government for the purpose of an employment application investigation, an employment retention investigation, or the approval of a security clearance for access to classified information, when the Federal agency requests such information as a part of a comprehensive investigation of the history and background of an individual, pursuant to an obligation to conduct such an investigation imposed by a Federal statute or Federal executive order, and pursuant to agency regulations setting forth the nature and scope of such an investigation. Arrest record information or criminal history record information that has been sealed may be made available only for the purpose of the approval of a security clearance. For investigations concerning security clearances for access to information classified as top secret, criminal justice intelligence information and criminal justice investigative information may be made available pursuant to this subsection. At the time he files his application, seeks a change of employment status, applies for a security clearance, or otherwise causes the initiation of the investigation, the individual shall be put on notice that such an investigation will be conducted and that access to this type of information will be sought.

(c) Any information made available pursuant to this section may be used only for the purpose for which it is made available and may not be redisseminated, copied, or retained by the requester beyond the time necessary to accomplish the purpose for which it was made available.

SECONDARY DISSEMINATION OF CRIMINAL JUSTICE INFORMATION

SEC. 205. Any agency or individual having access to, or receiving criminal justice information is prohibited, directly or through any intermediary, from disseminating such information to any individual or agency not authorized to have such information; except that correctional officials of criminal justice agencies, with the consent of an individual under their supervision to whom the information refers, may orally represent the substance of the individual's criminal history record information to prospective employers or other individuals if they believe that such representation may be helpful in obtaining employment or rehabilitation for the individual.

METHOD OF ACCESS TO CRIMINAL JUSTICE INFORMATION

SEC. 206. (a) Except as provided in section 203(d) or in subsection (b) of this section, a criminal justice agency may disseminate arrest record information or criminal history record information only if the inquiry is based upon identification of the individual to whom the information relates by means of name and other personal identification information. After the arrest of an individual, such information concerning him shall be available only on the basis of positive identification of him by means of fingerprints or other equally reliable identification record information.

(b) Notwithstanding the provisions of subsection (a), a criminal justice agency may disseminate arrest record information and criminal history record information for criminal justice purposes where inquiries are based upon categories of offense or data elements other than personal identification information if the criminal justice agency has adopted procedures reasonably designed to insure that such information is used only for the purpose of developing investigative leads for a particular criminal offense and that the individuals to whom such information is disseminated have a need to know and a right to know such information.

SECURITY, ACCURACY, AND UPDATING OF CRIMINAL JUSTICE INFORMATION

SEC. 207. (a) Each criminal justice agency shall adopt procedures reasonably designed at a minimum—

(1) to insure the physical security of criminal justice information, to prevent the unauthorized disclosure of the information and to insure that the criminal justice information is currently and accurately revised to include subsequently received information and that all agencies to which such information is disseminated or from which it is collected are currently and accurately informed of any correction, deletion, or revision of the information;

(2) to insure that criminal justice agency personnel responsible for making or recording decisions relating to dispositions shall as soon as feasible report such dispositions to an appropriate agency or individual for inclusion with arrest record information to which such dispositions relate;

(3) to insure that records are maintained and kept current for at least three years with regard to—

(A) requests from any other agency or person for crimial justice information, the identity and authority of the requestor, the nature of the information provided, the nature, purpose and disposition of the request, and pertinent dates; and

(B) the source of arrest record information and criminal history information; and

(4) to insure that criminal justice information may not be submitted, modified, updated, or removed from any criminal justice agency record or file without verification of the identity of the individual to whom the information refers and an indication of the person or agency submitting, modifying, updating, or removing the information.

(b) If the Commission on Criminal Justice Information finds that full implementation of this section is infeasible because of cost or other factors it may exempt the provisions of this section from application to information maintained prior to the effective date of this Act.

SEALING AND PURGING OF CRIMINAL JUSTICE INFORMATION

SEC. 208 (a) Each criminal justice agency shall adopt procedures providing at a minimum—

(1) for the prompt sealing or purging of criminal justice information when required by State or Federal statute, regulation, or court order;

(2) for the prompt sealing or purging of criminal justice information relating to an offense by an individual who has been free from the jurisdiction or supervision of any criminal justice agency for a period of seven years, if the individual has previously been convicted and such offense is not specifically exempted from sealing by a Federal or State statute;

(3) for the sealing or purging of arrest record information after a period of two years following an arrest, detention, or formal charge, whichever comes first, if no conviction of the individual occurred during that period, no prosecution is pending at the end of the period, and the individual is not a fugitive; and

(4) for the prompt purging of criminal history record information in any case in which a law enforcement agency has elected not to refer the case to the prosecutor or in which the prosecutor has elected not to file information, seek an indictment or other formal criminal charge.

(b) Criminal justice information sealed pursuant to this section may be made available.

(1) in connection with research pursuant to subsection 203(d);

(2) in connection with a review by the individual or his attorney pursuant to section 209;

(3) in connection with an audit conducted pursuant to section 304 or 310;

(4) where a conviction record has been sealed and an indictment, information or other formal criminal charge is subsequently filed against the individual; or

(5) where a criminal justice agency has obtained an access warrant from a State judge of competent jurisdiction if the information sought is in the possession of a State or local agency, or from a Federal judge of competent jurisdiction if the information sought is in the possession of a Federal agency. Such warrants may be issued as a matter of discretion by the judge in cases in which probable cause has been shown that (A) such access is imperative for purposes of the criminal justice agency's responsibilities in the administration of criminal justice, and (B) the information sought is not reasonably available from any other source or through any other method.

(c) Access to any index of sealed criminal justice information shall be permitted only to the extent necessary to implement subsection (b). Any index of sealed criminal justice information shall consist only of personal identification information and the location of the sealed information.

ACCESS BY INDIVIDUALS TO CRIMINAL JUSTICE INFORMATION

INFORMATION FOR PURPOSES OF CHALLENGE

SEC. 209. (a) Any individual shall, upon satisfactory verification of his identity and compliance with applicable rules or regulations, be entitled to review any arrest record information or criminal history record information concerning him maintained by any criminal justice agency and to obtain a copy of it if needed for the purpose of challenging its accuracy or completeness or the legality of its maintenance.

(b) Each criminal justice agency shall adopt and publish rules or regulations to implement this section.

(c) The final action of a criminal justice agency on a request to review and challenge criminal justice information in its possession as provided by this section, or a failure to act expeditiously on such a request, shall be reviewable pursuant to a civil action under section 303.

(d) No individual who, in accord with this section, obtains information regarding himself may be required or requested to show or transfer records of that information to any other person or any other public or private agency or organization.

CRIMINAL JUSTICE INTELLIGENCE INFORMATION

SEC. 210. (a) Criminal justice intelligence information may be maintained by a criminal justice agency only for official criminal justice purposes. It shall be maintained in a physically secure environment and shall be kept separate from criminal justice information.

(b) Criminal justice intelligence information regarding an individual may be maintained only if grounds exist connecting such individual with known or suspected criminal activity and if the information is pertinent to such criminal activity. Criminal justice intelligence information shall be reviewed at regular intervals, but at a minimum whenever dissemination of such information is requested, to determine whether such grounds continue to exist, and if grounds do not exist such information shall be purged.

(c) Within the criminal justice agency maintaining the information, access to criminal justice intelligence information shall be limited to those officers or employees who have both a need to know and a right to know such information.

(d) Criminal justice intelligence information may be disseminated from the criminal justice agency which collected such information only to a Federal agency authorized to receive the information pursuant to section 204 or to a criminal justice agency which needs the information to confirm the reliability of information already in its possession or for investigative purposes if the agency is able to point to specific and articulable facts which taken together with rational inferences from those facts warrant the conclusion that the individual has committed or is about to commit a criminal act and that the information may be relevant to the act.

(e) When access to criminal justice information is permitted under subsection (c) or when such information is disseminated pursuant to subsection (d) a record shall be kept of the identity of the person having access or the agency to which information was disseminated, the date of access or dissemination, and the purpose for which access was sought or information disseminated. Such records shall be retained for at least three years.

(f) Direct remote terminal access to criminal justice intelligence information shall not be permitted. Remote terminal access shall be permitted to personal identification information sufficient to provide an index of subjects of criminal justice intelligence information and the names and locations of criminal justice agencies possessing criminal justice intelligence information concerning such subjects and automatically referring the requesting agency to the agency maintaining more complete information.

(g) An assessment of criminal justice intelligence information may be provided to any individual when necessary to avoid imminent danger to life or property.

CRIMINAL JUSTICE INVESTIGATIVE INFORMATION

SEC. 211. (a) Criminal justice investigative information may be maintained by a criminal justice agency only for official law enforcement purposes. It shall be maintained in a physically secure environment and shall be kept separate from criminal justice information. It shall not be maintained beyond the expiration of the statute of limitations for the offense concerning which it was collected or the sealing or purging of the criminal justice information related to such offense, whichever occurs later.

(b) Criminal justice investigative information may be disclosed pursuant to subsection 552(b)(7) of title 5 of the United

States Code or any similar State statute, or pursuant to any Federal or State statute, court rule, or court order permitting access to such information in the course of court proceedings to which such information relates.

(c) Except when such information is available pursuant to subsection (b), direct access to it shall be limited to those officers or employees of the criminal justice agency which maintains the information who have a need to know and a right to know such information and it shall be disseminated only to other governmental officers or employees who have a need to know and a right to know such information in connection with their civil or criminal law enforcement responsibilities. Records shall be kept of the identity of persons having access to criminal justice investigative information or to whom such information is disseminated, the date or access or dissemination, and the purpose for which access is sought or files disseminated. Such records shall be retained for at least three years.

(d) Criminal justice investigative information may be made available to officers and employees of government agencies for the purposes set forth in section 204.

TITLE III—ADMINISTRATIVE PROVISIONS; REGULATIONS, CIVIL REMEDIES; CRIMINAL PENALTIES

COMMISSION ON CRIMINAL JUSTICE INFORMATION

SEC. 301. CREATION AND MEMBERSHIP.—

(a) There is hereby created a Commission on Criminal Justice Information (hereinafter the "Commission") which shall have overall responsibility for the administration and enforcement of this Act. The Commission shall be composed of thirteen members. One of the members shall be the Attorney General and two of the members shall be designated by the President as representatives of other Federal agencies outside of the Department of Justice. One of the members shall be designated by the President on the recommendation of the Judicial Conference of the United States. The nine remaining members shall be appointed by the President with the advice and consent of the Senate. Of the nine members appointed by the President, seven shall be officials of criminal justice agencies from seven different States at the time of their nomination, representing to the extent possible all segments of the criminal justice system. The two remaining Presidential appointees shall be private citizens well versed in the law of privacy, constitutional law, and information systems technology, and shall not have been employed by any criminal justice agency within the five years preceding their appointments. Not more than seven members of the Commission shall be of the same political party.

(b) The President shall designate one of the seven criminal justice agency officials as Chairman and such designation shall also be confirmed by the advice and consent of the Senate. The Commission shall elect a Vice Chairman who shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(c) The designated members of the Commission shall serve at the will of the President. The Attorney General and the appointed members shall serve for terms of five years. Any vacancy shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment or designation was made.

(d) Seven members of the Commission shall constitute a quorum for the transaction of business.

SEC. 302. COMPENSATION OF MEMBERS.—

(a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of title 5, prorated on a daily basis for each day spent in the work of the Commission, and shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of the Travel Expenses Act of 1949, as amended.

(c) Members of the Commission shall be considered "special Government employees" within the meaning of section 202(a) of title 18.

SEC. 303. DURATION OF COMMISSION.—The Commission shall exercise its powers and duties for a period of five years following the first appropriation of funds for its activities and the appointment and qualification of a majority of the members. It shall make a final report to the President and to the Congress on its activities as soon as possible after the expiration of the five year period and shall cease to exist thirty days after the date on which its final report is submitted.

SEC. 304. POWERS AND DUTIES.—

(a) For the purpose of carrying out its responsibilities under the Act, the Commission shall have authority—

(1) after consultation with representatives of criminal justice agencies subject to the Act, and after notice and hearings in accordance with the Administrative Procedures Act, to issue such regulations, interpretations and procedures as it may deem necessary to effectuate the provisions of this Act, including regulations limiting the extent to which a Federal criminal justice agency may perform telecommunications or criminal identification functions for state or local criminal justice agencies or include in its information storage facilities criminal justice information or personal identification information relative to violations of the laws of any state.

(2) to conduct hearings in accordance with section 305;

(3) to bring civil actions for declaratory judgments, cease-and-desist orders and such other injunctive relief as may be appropriate against any agency or individual for violations of the Act or of its rules, regulations, interpretations or procedures;

(4) to make studies and gather data concerning the collection, maintenance, use and dissemination of any information subject to the Act and compliance of criminal justice agencies and other agencies and individuals with the provisions of the Act;

(5) to require from each criminal justice agency information necessary to compile a directory of criminal justice information systems subject to the Act and publish annually a directory identifying all such systems and the nature, purpose and scope of each;

(6) to conduct such audits and investigations as it may deem necessary to ensure enforcement of the Act; and

(7) to delay the effective date of any provision of this Act for up to one year, provided that such delay is necessary to prevent serious adverse effects on the administration of justice.

(b) The Commission shall report annually to the President and to the Congress with respect to compliance with the Act and concerning such recommendations as it may have for further legislation. It may submit to the President and Congress and to the chief executive of any State such interim reports and recommendations as it deems necessary.

SEC. 305. HEARINGS AND WITNESSES.—

(a) The Commission, or, on authorization of the Commission, any three or more members, may hold such hearings and act at such times and places as necessary to carry out the provisions of this Act. Hearings shall be public except to the extent that the hearings or portions thereof are closed by the Commission in order to protect the privacy of individuals or the security of information protected by this Act.

(b) Each member of the Commission shall have the power and authority to administer oaths or take statements from witnesses under affirmation.

(c) A witness attending any session of the Commission shall be paid the same fees and mileage paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(d) Subpenas for the attendance and testimony of witnesses or the production of written or other matter, required by the Commission for the performance of its duties under this Act, may be issued in accordance with rules or procedures established by the Commission and may be served by any person designated by the Commission.

(e) In case of contumacy or refusal to obey a subpena any district court of the United States or the United States court of any territory or possession, within the jurisdiction of which the person subpenaed resides or is domiciled or transacts business, or has appointed an agent for the receipt of service or process, upon application of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant, and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished as contempt.

(f) Nothing in this Act prohibits a criminal justice agency from furnishing the Commission information required by it in the performance of its duties under this Act.

SEC. 306. DIRECTOR AND STAFF.—There shall be a full-time staff director for the Commission who shall be appointed by the President by and with the advice and consent of the Senate and who shall receive compensation at the rate provided for level V of the Federal Executive Salary Schedule, pursuant to section 5316 of title 5. The President shall consult with the Commission before submitting the nomination of any person for appointment as staff director. Within the limitation of appropriations and in accordance with the civil service and classification laws, the Commission may appoint such other personnel as it deems advisable: *Provided, however,* that the number of professional personnel shall at no time exceed fifty. The Commission may procure services as authorized by section 3109 of title 5, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS–18 of the General Schedule under section 5332 of title 5.

STATE INFORMATION SYSTEMS REGULATIONS

SEC. 307. (a) The Commission shall encourage each of the States to create or designate an agency to exercise statewide authority and responsibility for the enforcement within the State of the provisions of the Act and any related State statutes, and to issue rules, regulations, and procedures, not inconsistent with this Act or regulations issued pursuant to it, regulating the maintenance, use, and dissemination of criminal justice information within the State.

(b) Where such agencies are created or designated, the Commission shall rely upon such agencies to the maximum extent possible for the enforcement of the Act within their respective States.

(c) Where any provision of this Act requires any criminal justice agency to establish procedures or issue rules or regulations, it shall be sufficient for such agencies to adopt or certify compliance with appropriate rules, regulations, or procedures issued by any agency created or designated pursuant to subsection (a) of this section or by any other agency within the State authorized to issue rules, regulations, or procedures of general application, provided such rules, regulations, or procedures are in compliance with the Act.

CIVIL REMEDIES

SEC. 308. (a) Any person aggrieved by a violation of this Act or regulations promulgated thereunder shall have a civil action for damages or any other appropriate remedy against any person or agency responsible for such violation. An action alleging a violation of section 209 shall be available only after any administrative remedies established pursuant to that section have been exhausted.

(b) The Commission on Criminal Justice Information System shall have a civil action for declaratory judgments, cease and desist orders, and such other injunctive relief as may be appropriate against any criminal justice agency in order to enforce the provisions of the Act.

(c) If a defendant in an action brought under this section is an officer or employee or agency of the United States the action shall be brought in an appropriate United States district court. If the defendant or defendants in an action brought under this section are private persons or officers or employees or agencies of a State or local government, the action may be brought in an appropriate United States district court or in any other court of competent jurisdiction. The district courts of the United States shall have jurisdiction over actions described in this section without regard to the amount in controversy.

(d) In any action brought pursuant to this Act, the court may in its discretion issue an order enjoining maintenance or dissemination of information in violation of this Act or correcting records of such information or may order any other appropriate remedy, except that in an action brought pursuant to subsection (b) the court may order only declaratory or injunctive relief.

(e) In an action brought pursuant to subsection (a) any person aggrieved by a violation of this Act shall be entitled to actual and general damages but not less than liquidated damages of $100 for each violation and reasonable attorneys' fees and other litigation costs reasonably incurred. Exemplary and punitive damages may be granted by the court in appropriate cases brought pursuant to subsection (a). Any person or agency responsible for violations of this Act shall be jointly and severally liable to the person aggrieved for damages granted pursuant to this subsection: *Provided, however,* that good faith reliance by an agency or an official or employee of such agency upon the assurance of another agency or employee that information provided the former agency or employee is maintained or disseminated in compliance with the provisions of this Act or any regulations issued thereunder shall constitute a complete defense for the former agency or employee to a civil damage action brought under this section but shall not constitute a defense with respect to equitable relief.

(f) For the purposes of this Act the United States shall be deemed to have consented to suit and any agency of the United States found responsible for a violation shall be liable for damages, reasonable attorneys' fees, and litigation costs as provided in subsection (e) notwithstanding any provisions of the Federal Tort Claims Act.

(g) A determination by a court of a violation of internal operating procedures adopted pursuant to this Act should not be a basis for excluding evidence in a criminal case unless the violation is of constitutional dimension or is otherwise so serious as to call for the exercise of the supervisory authority of the court.

CRIMINAL PENALTIES

SEC. 309. Any government employee who willfully disseminates, maintains, or uses information knowing such dissemination, maintenance, or use to be in violation of this Act shall be fined not more than $10,000.

AUDIT AND ACCESS TO RECORDS BY THE GENERAL ACCOUNTING OFFICE

SEC. 310. (a) The Comptroller General of the United States shall from time to time, at his own initiative or at the request of either House or any committee of the House of Representatives or the Senate or any joint committee of the two Houses, conduct audits and reviews of the activities of the Commission on Criminal Justice Information under this Act. For such purpose, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine all books, accounts, records, reports, files, and all other papers, things, and property of the Commission or any Federal or State agencies audited by the Commission pursuant to section 304(a)(6) of this Act, which, in the opinion of the Comptroller General, may be related or pertinent to his audits and reviews of the activities of the Commission. In the case of agencies audited by the Commission, the Comptroller General's right of access shall apply during the period of audit by the Commission and for three years thereafter.

(b) Notwithstanding any other provision of this Act, the Comptroller General's right of access to books, accounts, records, reports, and files pursuant to and for the purposes specified in subsection (a) shall include any information covered by this Act. However, no official or employee of the General Accounting Office shall disclose to any person or source outside of the General Accounting Office any such information in a manner or form which identifies directly or indirectly any individual who is the subject of such information.

PRECEDENCE OF STATE LAWS

SEC. 311. Any State law or regulation which places greater restrictions upon the maintenance, use, or dissemination of criminal justice information, criminal justice intelligence information, or criminal justice investigative information or which affords to any individuals, whether juveniles or adults, rights of privacy or other protections greater than those set forth in this Act shall take precedence over this Act or regulations issued pursuant to this Act with respect to any maintenance, use, or dissemination of information within that State.

APPROPRIATIONS AUTHORIZED

SEC. 312. For the purpose of carrying out provisions of this Act, there are authorized to be appropriated such sums as the Congress deems necessary.

SEVERABILITY

SEC. 313. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

REPEALERS

SEC. 314. The following provisions of law are hereby repealed:

(a) The second paragraph under the headings entitled "Federal Bureau of Investigation; Salaries and Expenses" contained in the Department of Justice Appropriations Act, 1973; and

(b) Any of the provisions of the Privacy Act of 1974, Public Law 93-579, 88 Stat. 1896, applicable to information covered by this Act.

EFFECTIVE DATE

SEC. 315. The provisions of sections 301 through 307 and of sections 310 and 312 of this Act shall take effect upon the date of enactment and members, officers, and employees of the Commission on Criminal Justice Information may be appointed and take office at any time after that date. Provisions of the remainder of the Act shall take effect one year after the date of enactment: *Provided, however,* That the Commission may, in accordance with section 304(b), delay the effective date of any provision for up to one additional year.

By Mr. JACKSON (by request):

S. 2010. A bill providing for the improvement of law enforcement and the determination of civil and criminal jurisdiction and law in Indian country, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, at the request of the National Congress of American Indians, I introduce, for appropriate reference, a bill providing for the improvement of law enforcement and the determination of civil and criminal jurisdiction and law in Indian country, and for other purposes.

The purpose of the bill I introduce today is to enable certain Indian tribes to reacquire jurisdiction which was assumed by States pursuant to Public Law 280. That public law was adopted by the 83d Congress and signed into law on August 15, 1953. It was adopted during a period in which the expressed Federal policy toward Indians sought to terminate Federal responsibility for, and special relationships with, Indian tribes. The avowed purpose of Public Law 280 was to give all of the States the option of assuming civil and criminal jurisdiction over Indan reservations within their borders. Prior to that time, State jurisdiction over Indian reservations was limited to that conferred by special acts of Congress or judicially recognized because of the involvement of non-Indians. Jurisdiction over civil and criminal matters between Indians on their reservations rested with either the tribal governments or the Federal Government.

As adopted in 1953, the statute subjected, with three exceptions, the Indian tribes in five specified States to the civil and criminal jurisdiction of those States, and gave the consent of the United States to the assumption of such jurisdiction by all other States. The right to initiate the assumption of such jurisdiction was given entirely to the States. Despite the objections of several Indian representatives, no requirement that the consent of the Indian tribes affected be obtained was included. A 1968 amendment to Public Law 280 gave Indian tribes the consent privilege over prospective acquisition of civil and criminal jurisdiction by the States.

Mr. President, I am introducing the measures at the request of the National Congress of American Indians. My introduction of the bill neither reflects my

support nor opposition to its various provisions. The bill represents the official position of the National Congress of American Indians with respect to Public Law 280 and the public policy issues emanating from that public law. As the attached letter from the president of the national congress indicates, they have requested that I introduce their bill so that it might be considered along with other pending measures that will be the subject of hearings before the Subcommittee on Indian Affairs in the near future.

Several of the Indian tribes in my home State of Washington are constituent members of the National Congress of American Indians and as an accommodation to those tribal groups, as well as the national congress in general, I am introducing the proposed legislation as a service to the organization.

In conclusion, I want to reiterate my belief that the position of the National Congress of American Indians with respect to Public Law 280 deserves consideration along with other pending proposals to be considered at the forthcoming subcommittee hearing.

I ask unanimous consent that the bill, together with the national congress letter to me, be printed in the RECORD.

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

S. 2010

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 "Indian Law Enforcement Improvement Act of 1975."

TITLE I—DETERMINATION OF CIVIL AND CRIMINAL JURISDICTION AND LAW

SEC. 101—The Congress, after careful review of the Federal Government's historical and special legal relationship with the American Indian people, finds that:

(a) The Federal Government has heretofore recognized the sovereignty of Indian tribes through treaties, agreements, and executive orders and statutes;

(b) Congress has heretofore declared it to be the policy of the United States to guarantee self-determination to American Indians and to preserve the Federal Government's relationship with and responsibility to Indian tribes;

(c) The lack of a consistent Congressional Indian policy in the past has resulted in the unclear jurisdictional status of Indian country with varying patterns of jurisdictional checkerboarding, overlapping and inconsistencies which show little or no promise of clear and workable judicial determination;

(d) It has not been finally judicially determined whether the application of tribal, state, and federal civil and criminal jurisdiction and law in Indian country is exclusive or concurrent;

(e) Jurisdictional problems of increasing severity and magnitude in Indian country have demonstrated that subjecting Indians and Indian country to state or federal civil and criminal jurisdiction and law without regard to the unique cultural, political, geographic and social factors of each Indian tribe and reservation is unjust and unworkable;

(f) The Indian tribes will never surrender their right to determine civil and criminal jurisdiction and law within the Indian country;

(g) True self-determination of Indian tribes and the solution of jurisdictional problems in Indian country require that Indian tribes design their own legal and judicial systems and determine how the exercise of civil and criminal jurisdiction and law in Indian country be shared by tribal, state and federal governments and whether such jurisdiction and law be exclusive or concurrent; Indian tribal government and sovereignty must therefore be nurtured and strengthened by comprehensive federal assistance in the improvement of law enforcement in Indian country.

SEC. 102(a)—As used in this Act, the term "Indian country" includes:

(1) all land within the exterior boundaries of any federally recognized Indian reservation, notwithstanding the issuance of any trust or fee patent, and including any right-of-way running through the reservation;

(2) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State;

(3) all trust or restricted Indian allotments or lands including any rights-of-way running through them; and

(4) all trust or restricted land outside the limits of any Indian reservation held by the United States for any Indian tribe, band, community, group, or pueblo.

(b) As used in this Act, the term "tribe" shall, where appropriate, mean federally recognized Indian tribe, band, community, group, or pueblo.

SEC. 103(a)—In any case in which, pursuant to the provisions of sections 2, 4, 6, or 7 of the Act of August 15, 1953, 67 Stat. 588, the Act of February 8, 1887, 24 Stat. 390, the Act of May 27, 1902, 32 Stat. 245, the Act of May 31, 1902, 32 Stat. 284, the Act of May 8, 1906, 34 Stat. 182, the Act of May 6, 1910, 36 Stat. 348, the Act of December 30, 1916, 39 Stat. 865, the Act of June 14, 1918, 40 Stat. 606, the Act of April 28, 1924, 43 Stat. 111, the Act of June 26, 1936, 49 Stat. 1967, the Act of August 25, 1937, 50 Stat. 806, the Act of June 25, 1948, 62 Stat. 827, the Act of July 2, 1948, 62 Stat. 1224, the Act of September 13, 1950, 64 Stat. 845, the Act of August 27, 1954, 68 Stat. 868, the Act of June 18, 1956, 70 Stat. 290, the Act of August 8, 1958, 72 Stat. 545, the Act of April 11, 1968, 82 Stat. 73, or the Act of November 25, 1970, 84 Stat. 1358, or court decisions, any area of Indian country or person therein is subject to State civil or criminal jurisdiction or law, the Indian tribe affected is authorized to adopt resolutions indicating its desire (1) to have the United States reacquire all or any measure of such civil or criminal jurisdiction and to have all or any measure of the corresponding civil or criminal law of the State no longer applicable, and (2) to determine whether tribal, civil, or criminal jurisdiction or law shall be concurrent with all or any measure of Federal or State civil or criminal jurisdiction or law.

(b) Any such resolution shall be adopted by the tribal council or other governing body of such tribe, or shall be adopted by the initiative or referendum procedure contained in the tribal constitution and bylaws: *Provided, however,* That if the tribal constitution and bylaws contain no initiative or referendum procedure, the resolution may be adopted by majority vote of the eligible voters who are enrolled members of the tribe residing on its reservation in a referendum election upon a petition signed by at least 25 percent of the eligible voters of the tribe who are enrolled members residing on its reservation.

(c) Ninety days following receipt by the Secretary of the Interior of any such resolution adopted in accordance with the provisions of this Act, the resolution shall be effective unless the Secretary of the Interior has within that period formally disapproved the resolution for the reason that (1) the tribe has no applicable existing or proposed law and order code, or (2) the tribe has no plan for fulfilling its responsibilities under the jurisdiction sought to be reacquired or determined.

(d) Whenever the resolution shall become effective, (1) the United States shall reacquire, in accordance with the provisions of the resolution, all or any measure of such civil or criminal jurisdiction in such area of Indian country or parts thereof occupied by the tribe, and all or any measure of the corresponding civil or criminal law of the State shall no longer be applicable therein, and (2) tribal civil or criminal jurisdiction or law shall, in accordance with the provisions of the resolution, be concurrent with all or any measure of Federal or State civil or criminal jurisdiction or law.

(e) Upon disapproval by the Secretary of any such resolution, the Secretary shall immediately assist the tribe under title II hereof in preparation of a law and order code or plan, and when such inadequacies are alleviated, the Secretary shall approve the resolution. In the event of disapproval by the Secretary of any such resolution, the tribe affected may appeal the disapproval to the Federal Court for the District of Columbia in which original jurisdiction for any such appeal is hereby vested, and the Secretary shall have the burden of sustaining his findings upon which the resolution was disapproved.

SEC. 104.—No action or proceeding pending before any court or agency of any State immediately prior to the reacquisition or determination of jurisdiction pursuant to this Act shall abate by reason thereof. For purposes of any such action or proceeding, such reacquisition or determination of jurisdiction shall take effect on the day following the date of final determination of such action or proceeding.

SEC. 105—Section 6 of the Act of August 15, 1953 (67 Stat. 588) is hereby repealed, but such repeal shall not affect any cession of jurisdiction validly made pursuant to such section prior to its repeal.

TITLE II—IMPROVEMENT OF LAW ENFORCEMENT ON INDIAN RESERVATIONS

SEC. 201 (a) The Secretary of the Interior is authorized and directed to establish and implement programs to improve law enforcement and the administration of justice within Indian reservations and Indian country.

(b) In implementing such programs the Secretary is authorized to make grants to, and contracts with, Indian tribes, to implement programs and projects to—

(1) determine the feasibility of Federal reacquisitions of jurisdiction and determination of jurisdiction over such Indian country or parts thereof occupied by such tribes, including preparation of law and order codes, substantive laws, codes of civil and criminal procedure, and establishment of plans for fulfilling tribal responsibilities under the jurisdiction sought to be reacquired or determined;

(2) establishing and strengthening police forces of the tribes, including recruitment, training, compensation, fringe benefits, and the acquisition and maintenance of police equipment;

(3) establishing and improving tribal courts in order to assure speedy and just trials for offenders, and appointment, training and compensation of qualified judges, and the appointment, training and compensation of qualified Indian prosecution officers, and the establishment of competent legal defender programs;

(4) the establishment and maintenance of correctional facilities and the establishment and strengthening of correctional personnel departments, including recruitment, training, compensation, and fringe benefits.

JUNE 18, 1975.

Hon. HENRY M. JACKSON,
Chairman, Interior and Insular Affairs Committee, U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Please accept a belated note of congratulations on your being selected as one of the recipients of our award at this year's fund-raising banquet.

Your work on behalf of legislation for the benefit of American Indians is greatly appreciated, and I extend that sentiment to you on behalf of NCAI and its membership across Indian Country.

I would also like to apprise you of the extent to which we have involved ourselves with the problems of P.L. 83-280. The tribes have gone through considerable expense and time to attend a series of national conferences to arrive at a measure of consensus concerning 280 and the proposed Abourezk bill. We, in no way, wish to undermine his efforts, but we would respectfully request that your office introduce an alternate bill (attached) written by NCAI, which we feel best incorporates the tribal feelings on the jurisdiction question.

I realize only too well the time contraints. However, your help in introducing the bill in time to provide additional focus for the tribes' consideration at the hearings set for the 23rd and 24th of this month, would be greatly appreciated.

Sincerely,

MEL TONASKET,
President, NCAI.

By Mr. SCHWEIKER (for himself and Mr. JAVITS) (by request):

S. 2011. A bill to extend appropriations authorizations for emergency medical services systems, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. SCHWEIKER. Mr. President, at the request of the administration, I introduce, with my colleague from New York (Mr. JAVITS), S. 2011, a bill to extend appropriations authorizations for emergency medical services systems, and for other purposes. This bill would extend to the end of fiscal year 1978 the appropriations authorizations for emergency medical services systems—EMSS—now due to expire at the end of fiscal year 1976.

Mr. President, I ask unanimous consent that the letter of transmittal of the proposed legislation and the text of the bill be printed in the RECORD.

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

S. 2011

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

SECTION 1. Section 1203(c)(3) of the Public Health Service Act is amended—

(1) by striking out "for" each time it occurs and inserting instead "in", and

(2) by striking out "June 30, 1976" and inserting instead "September 30, 1978".

SEC. 2. Section 1206(e) of the Act is amended—

(1) by striking out "authorized by this title" and inserting instead "authorized by section 1202, 1203, or 1204", and

(2) in clause (1), by striking out "1207" and inserting instead "1207(a)".

SEC. 3. Section 1207(a) of the Act is amended—

(1) in paragraph (1), by—

(A) striking out "and" after "June 30, 1974",

(B) inserting ", and $22,600,000 for the fiscal year ending June 30, 1975" after "June 30, 1975", and

(C) striking out everything after "under sections 1203 and 1204" and inserting instead "there are authorized to be appropriated $22,600,000 for the fiscal year ending September 30, 1977, and the same amount for the succeeding fiscal year.", and

(2) by striking out paragraphs (3) and (4).

MAY 15, 1975.

Hon. NELSON A. ROCKEFELLER,
President of the Senate
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To extend appropriations authorizations for emergency medical services systems, and for other purposes."

The draft bill would extend to the end of fiscal year 1978 appropriations authorizations for emergency medical services systems (EMSS), now due to expire at the end of fiscal year 1976. Specifically, the proposal would (1) revise the appropriation authorization for FY 1976 to provide, consistent with the 1976 Budget, an appropriation authorization of $22.6 million for grants and contracts for studying the feasibility of, planning for, establishing, initially operating, expanding, and improving EMSS; (2) authorize to be appropriated for FY 1977 and FY 1978 $22.6 million for grants and contracts for establishing, initially operating, expanding, and improving EMSS; and (3) repeal the required percentage allotments of funds among the various purposes. The research appropriations authorization expiring at the end of FY 1976 would not be extended, as this authorization duplicates existing general research authorities.

We urge the prompt and favorable consideration of this legislation.

We are advised by the Office of Management and Budget that enactment of this proposal would be in accord with the program of the President.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

By Mr. SCHWEIKER (for himself and Mr. JAVITS) (by request):

S. 2012. A bill to amend the Public Health Service Act and the National Research Service Award Act of 1974 to strengthen and improve the program of National Research Service Awards, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. SCHWEIKER. Mr. President, at the request of the administration, I introduce, with my colleague from New York (Mr. JAVITS), S. 2012, the National Research Service Award Amendments of 1975. This bill would amend the Public Health Service Act and the National Research Service Award Act of 1974.

Mr. President, I ask unanimous consent that the letter of transmittal of the proposed legislation and the text of the bill be printed in the RECORD.

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

S. 2012

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 Research Service Award Amendments of 1975".

SEC. 2. AUTHORIZING NRS AWARDS FOR RESEARCH AT FEDERAL HOSPITALS AND OTHER FEDERAL FACILITIES.—Sections 472(a)(1)(A)(iii) and 472(a)(1)(B) of the Public Health Service Act are each amended by striking out "non-Federal".

SEC. 3. DETERMINATION OF SUBJECT AREAS OF SHORTAGE; ALLOCATION OF AWARDS IN ACCORDANCE WITH DETERMINATION.—(a) SUBJECT AREAS.—The Public Health Service Act is further amended by adding after section 473 a new section 474 to read as follows:

"SEC. 474. After considering the recommendations made under section 473(a) insofar as pertinent, the Secretary shall annually determine, and promulgate by September 1 of each year for the 12-month period ending June 30 of that year, those subject areas or aspects of subject areas (1) for which there are, during that period, or for which within the five calendar years following that year there are likely to be, significantly inadequate numbers of individuals who possess the qualifications or proficiency determined by the Secretary to be necessary to perform any aspect of biomedical or behavioral research and (2) with respect to which subject areas or aspects of subject areas, the capacity to train individuals to perform that research, or to perform it with the necessary proficiency, is insufficient materially to remedy that inadequacy and will not become materially sufficient without Federal support. The Secretary shall include, as part of his promulgation, a description of the methodology used to determine those subject areas or aspects of subject areas."

(b) ALLOCATION. Section 472(a)(3) of the Act is amended to read as follows:

"(3) Effective July 1, 1976, with respect to National Research Service Awards under section 472(a)(1)(A)(iv), the Award shall be given only for research or research training in those subject areas or aspects of subject areas for which there is a need for personnel as determined under section 474."

SEC. 4. LIBERALIZATION OF PAYBACK FORMULA. The last paragraph of subsection (c) of section 472 of the Act is redesignated as paragraph (5), and paragraph (4)(a) of that subsection (as so amended) is amended by striking out

$$\text{"A}=\varphi\left(\frac{t-\frac{1}{2}s}{t}\right)\text{"}$$

and inserting in lieu thereof

$$\text{"A}=\varphi\left(\frac{t-\frac{3}{4}s}{t}\right)\text{"}.$$

SEC. 5. EXTENSION OF AUTHORIZATION. Section 472(d) of the Act is amended by inserting ", and $136 million for each of the next three fiscal years" after "1975".

SEC. 6. PERSONNEL STUDIES. (a) Section 473(a) of the Act is amended to read as follows:

"SEC. 473. (a) In order to provide guidance and information on which to base Federal policies relating to the training of biomedical or behavioral research personnel, the Secretary shall, in accordance with subsection (b), arrange for the conduct of a study to—

"(1) estimate (A) the Nation's overall need for biomedical and behavioral research personnel, (B) the subject areas in which such personnel are needed and the number of such personnel needed in each such area, and (C) the kinds and extent of training which should be provided such personnel;

"(2) assess (A) current training programs available for the training of biomedical and behavioral research personnel which are conducted under this Act at or through institutes under the National Institues of Health and the Alcohol, Drug Abuse, and Mental Health Administration, and (B) other current training programs available for the training of such personnel;

"(3) identify the kinds of research positions available to and held by individuals completing such programs;

"(4) determine, to the extent feasible, whether the programs referred to in clause (B) of paragraph (2), or alternative pro-

grams that could be developed, would be adequate to meet the needs established under paragraph (1) if the programs referred to in clause (A) of paragraph (2) were terminated;

"(5) recommend what modifications in the programs referred to in paragraph (2) are required to meet the needs estimated under paragraph (1);

"(6) recommend those subject areas for which there are or are likely within 5 years to be significantly inadequate numbers of qualified research personnel and in which current training capacity is inadequate and will not develop without Federal support; and

"(7) provide a detailed description of the methodology by which the subject areas provided in paragraph (6) were recommended."

(b) Section 473(c) of the Act is amended (1) by inserting "preliminary" before "results" and (2) by striking out "March 31 of each year" and inserting "August 15, 1975" in lieu thereof.

(c)(1) Section 473 of the Act is further amended by adding at the end a new subsection (d) to read as follows:

"(d) A report of the final results of such study shall be submitted to the Secretary not later than March 31, 1977. The Secretary shall submit such study with his comments to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate not later than June 30, 1977."

(2) Section 473(b)(2) of the Act is amended by adding "and subsection (d)" after "subsection (c)".

(3) Section 473(c) of the Act is amended by striking out "March 31 of each year" and inserting "August 15, 1975" in lieu thereof.

SEC. 7. STATEMENT OF PURPOSE.—(a) Section 102(a) of the National Research Service Award Act of 1974 is amended (1) by inserting "and" at the end of paragraph (1), (2) by striking out "and necessary" in paragraph (2), (3) by striking out "; and" at the end of paragraph (2) and inserting a period in lieu thereof, and (4) by striking out paragraph (3).

(b) Section 102(b) of that Act is amended by striking out "increase" and inserting "ensure" in lieu thereof.

SEC. 8. EFFECTIVE DATE.—This Act is effective with respect to appropriations for fiscal years beginning after June 30, 1975.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
May 13, 1975.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To amend the Public Health Service Act and the National Research Service Award Act of 1974 to strengthen and improve the program of National Research Service Awards, and for other purposes." The bill would be cited as the "National Research Service Award Amendments of 1975."

The draft bill would extend the National Research Service Award Act of 1974 (title I of the National Research Act, Public Law 93-348) for three years, fiscal year 1976 through 1978.

The 1976 Budget includes funding of $136 million for research training through the National Institutes of Health (NIH) and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA). At this level, an estimated 12,000 trainees will be supported during 1976.

Currently, we are responsible for three types of research training support. First, we are continuing to support training grants and fellowships that were awarded prior to January, 1973. Because of the impact of released fiscal year 1973 funds that were obligated in fiscal year 1974, this aspect of our research training support currently involves the obligation of about $200 million for the support of 12,000 full-time trainees and 5,000 part-time trainees.

Second, in July, 1973, we announced a new fellowship program, limited to post-doctoral awards. A limited number of institutional awards were to be made under this program in shortage specialty areas where support was needed to provide training environments of types not in existence

Third, the National Research Service Award Act of 1974, enacted in July, 1974, provided consolidated research training authority for NIH and ADAMHA. It superseded the previous research training authorities of NIH and ADAMHA which had been used. The new Act authorizes individual fellowships and institutional awards for biomedical and behavioral research and research training at both the pre- and post-doctoral levels. In return for Federal support, individual recipients must agree to a service payback obligation. The Act also requires the Secretary to contract with the National Academy of Sciences for a study of research personnel and training programs to identify those specific subject areas in which there are shortages of research personnel. Effective July 1, 1975, research training awards are to be granted only to train investigators in those shortage subject areas, as identified by the National Academy of Sciences.

The enclosed bill recognizes that extensive Federal assistance for biomedical research and research training is no longer necessary. In the 1960's, biomedical research grants grew at an average rate of about twenty-two percent annually. In the context of such rapid growth, a large amount of research training support was provided to attract and educate an increasing number of qualified individuals in a short period of time.

Now, however, partly as a result of past research training supports, institutional training capacity and student interest in such research have grown to the point at which the number of biomedical and behavioral researchers is in overall balance with national need. There remains, however, a chronic shortage of highly qualified research personnel in a few selected subject areas. Accordingly, we believe that Federal expenditures for research training should now be focused specifically on the alleviation of this shortage.

The 1976 Budget therefore contemplates that NRS Awards will be limited to awards to individuals for post-doctoral fellowships in areas in which there are insufficient numbers of research personnel. The 1976 Budget provides for 1,100 new fellowships because it brings the number of trainees roughly in line with the number of new researchers supported annually on research grants. Individual fellowship support was chosen because it is consistent with the Administration's general higher education policy of concentrating support on individual students in preference to support of institutions. Moreover, this post-doctoral support does not further aggravate any problems of excess supply of researchers because training will be only in areas of need. Furthermore, the approach will prevent institutions from becoming even more directly dependent than at present on Federal funds to pay faculty salaries.

The enclosed draft bill is predicated upon this reorientation of administrative objectives under the NRSA Act.

Section 3 of the bill would require the Secretary annually to determine the subject areas for which there are, or shortly will be, significantly inadequate numbers of individuals qualified to perform biomedical or behavioral research, and with respect to which subject areas research training capacity is materially insufficient to remedy this inadequacy.

The Secretary would allocate Awards on the basis of this annual determination, making Awards only for research or research training in shortage subject areas.

One of the key elements of the current authority is a study to be undertaken by the National Academy of Sciences under which there will be identified the specific subject areas of need for additional research personnel. However, the Act is unclear that the NAS recommendations are intended only to be advisory to the Secretary. The bill would resolve this point and, in other respects, somewhat expand and clarify the purposes of the study. We do not believe that an annual NAS study is necessary, however, and have proposed to amend the Act to provide, instead, for only one such study, to be completed by March 31, 1977.

In this regard, current law provides that no NRS Awards may be made for research or research training after June 30, 1975, except in subject areas determined to have need for research personnel by the NAS study authorized by section 473. Inasmuch as NAS will not have completed its study to determine these areas with the specificity necessary to guide the making of these awards in time to meet this date, the bill would extend the date to June 30, 1976.

The draft bill would also somewhat ameliorate the harshness of the formula under which an individual who has failed to complete his service obligation must repay his Award. Under it, an individual who has served only part of the service commitment period receives only half credit for the actual length of service in the payback formula. As we would modify it, an individual who fails to complete his service commitment would receive three-fourths credit for the time served.

Finally, the draft bill would authorize NRS Awards for research at Federal hospitals and other Federal facilities.

We urge that the bill receive prompt and favorable consideration.

We are advised by the Office of Management and Budget that enactment of this proposal would be in accord with the program of the President.

Sincerely,

CASPAR WEINBERGER,
Secretary.

By Mr. MONDALE (for himself, Mr. PHILIP A. HART, Mr. WILLIAMS, Mr. PACKWOOD, Mr. JAVITS, Mr. STONE, Mr. HUMPHREY, and Mr. KENNEDY):

S. 2014. A bill entitled "The Emergency Mortgage Relief Act of 1975." Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. MONDALE. Mr. President, I continue to believe that President Ford's veto of the Emergency Housing Act of 1975 was an unfortunate action on his part.

That bill could have meant 800,000 new jobs, 400,000 new homes, $12 billion in construction activity over the next year, and an important stimulus to the entire economy.

All of this was prevented by this unfortunate veto. However, Mr. President, another extremely important provision of H.R. 4485 also was prevented from becoming law because of the President's veto.

I speak, of course, of the portion of H.R. 4485 which was designed to help 100,000 American homeowners save their homes from mortgage foreclosure. I have been working on this program for more than 2 years. I offered this

proposal as an amendment to the housing bill during Senate consideration in April.

My amendment would have authorized the Department of Housing and Urban Development to make payments of up to $250 monthly for a period of no longer than 2 years on behalf of homeowners facing foreclosure because of unemployment or underemployment during our current economic difficulties.

With unemployment in this Nation at 9.2 percent, foreclosure has become an immediate and tragic problem for thousands of Americans. Because of President Ford's veto, these unfortunate citizens will lose their homes in the coming months if Federal help is not forthcoming.

While I cannot accept the President's objections to H.R. 4485, it is clear that he is firmly against enactment of new programs of interest subsidies and downpayment incentives to help our troubled housing industry.

I am not convinced, however, that the President is totally opposed to a program of foreclosure relief. It is in the hope that the President and the Department of Housing and Urban Development will be receptive to helping the thousands of American families faced with foreclosure that I introduce this legislation today.

The proposal I send to the desk embodies the foreclosure relief amendment I offered to H.R. 4485 on the Senate floor. This provision has been overwhelmingly approved by the Senate, by the House, and by the House-Senate conferees.

A similar proposal has long been sponsored in the House by Congressman LUD ASHLEY of Ohio.

It is a narrow provision, designed to specifically address a specific problem. There is, of course, a foreclosure relief measure currently pending on the Senate Calendar. That bill, S. 1457, continues to have my full and enthusiastic support. It embodies many of the concepts which I have submitted to both the 93d and the 94th Congress.

Unfortunately, however, I fear that even this excellent bill, brought to the floor by the distinguished chairman of the Senate Housing Subcommittee (Mr. SPARKMAN) who has long been a supporter of the mortgage relief concept, may be too broad for the administration. In the thought that this might be the case, I am introducing the narrow measure, which has been approved by the House and the Senate overwhelmingly, as a separate bill.

I am pleased that I am joined in introducing this bill by a bipartisan group of Senators, including several members of Banking, Housing and Urban Affairs Committee. These Senators are listed on the bill.

Mr. President, I implore my colleagues to act quickly and decisively on a mortgage relief bill. Thousands of American families face the frightening prospect of foreclosure in the immediate future.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2014

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Mortgage Relief Act of 1975."

HOMEOWNERS RELIEF

SEC. 2. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make repayable emergency mortgage relief payments on behalf of homeowners who are delinquent in their mortgage payments.

(b) Emergency mortgage relief payments shall not be approved with respect to any mortgage unless—

(1) the holder of the mortgage has indicated to the mortgagor its intention to foreclose;

(2) the mortgagor and holder of the mortgage have indicated in writing to the Secretary and to any agency or department of the Federal Government responsible for the regulation of the holder that circumstances (such as the volume of delinquent loans in its portfolio) make it probable that there will be a foreclosure and that the mortgagor is in need of emergency mortgage relief authorized by this title, except that such statement by the holder of the mortgage may be waived by the Secretary if in his judgment such waiver would further the purposes of this title;

(3) payments under the mortgage have been delinquent for at least 2 months;

(4) the mortgagor has incurred a substantial reduction in income as a result of involuntary unemployment or underemployment due to adverse economic conditions and is financially unable to make the full mortgage payments;

(5) there is a reasonable prospect that the mortgagor will be able to make the adjustments necessary for a full resumption of mortgage payments; and

(6) the mortgaged property is the principal residence of the mortgagor.

As used in this title, the term "mortgaged property" includes, but is not limted to, property owned in fee simple, condominium units, mobile homes, or multiunit dwellings.

(c) Mortgage relief payments on behalf of a homeowner may be in an amount up to the amount of the principal, interest, taxes, ground rents, hazard insurance, and mortgage insurance premiums due under the mortgage, but such payments shall not exceed the lesser of $250 per month or the amount determined to be reasonably necessary to supplement such amount as the homeowner is capable of contributing toward such mortgage payment.

(d) Mortgage relief payments may be made by the Secretary for up to 12 months, and may be extended once for up to 12 additional months. The Secretary shall require the mortgagor to report any increase in income which will permit a reduction or termination of mortgage relief payments during this period.

(e) Mortgage relief payments made under this title shall be repayable by the homeowner upon such terms and conditions as the Secretary shall prescribe, except that interest on such payments shall not exceed 8 per centum per annum. Interest shall not begin to accrue until after the last payment made by the Secretary in behalf of the homeowner. The Secretary may defer repayment of the mortgage relief payments until the disposition of the property or the completion of the period of amortization for the mortgage. The Secretary shall require such security for the repayment of mortgage relief payments as he deems appropriate and may secure such repayment by a lien on the mortgaged property. The Secretary may make such delegations and accept such certifications with respect to the processing of mortgage relief payments as he deems appropriate to facilitate the prompt and efficient implementation of the assistance program authorized by this title.

NOTIFICATION

SEC. 3. Until 2 years from the date of enactment of this Act, each Federal supervisory agency, with respect to financial institutions subject to its jurisdiction, and the Secretary, with respect to other approved mortgagees, shall (1) take appropriate action, not inconsistent with laws relating to the safety or soundness of such institutions or mortgagees, as the case may be, to waive or relax limitations pertaining to the operations of such institutions or mortgagees with respect to mortgage delinquencies in order to cause or encourage forbearance in residential mortgage loan foreclosures, and (2) request each such institution or mortgagee to notify that Federal supervisory agency, the Secretary, and the mortgagor, at least 30 days prior to instituting foreclosure proceedings in connection with any mortgage loan. As used in this section the term "Federal supervisory agency" means the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration.

AUTHORIZATION AND EXPIRATION DATE

SEC. 4. (a) There are authorized to be appropriated for purposes of this title not to exceed $500,000,000. Any amounts so appropriated shall remain available until expended.

(b) Mortgage relief payments shall not be made after July 1, 1976, except with respect to mortgagors receiving the benefit of payments on such date.

REPORTS

SEC. 5. Within 60 days after enactment of this title and within each 60-day period thereafter prior to July 1, 1976, the Secretary shall make a report to the Congress on (1) the current rate of delinquencies and foreclosures in the housing market areas of the country which should be of immediate concern if the purpose of this title is to be achieved; (2) the extent of, and prospect for continuance of, voluntary forbearance by mortgagees in such housing market areas; (3) actions being taken by governmental agencies to encourage forebearance by mortgagees in such housing market areas; (4) actions taken and actions likely to be taken with respect to making assistance under this title available to alleviate hardships resulting from any serious rates of delinquencies and foreclosures; and (5) the current default status and projected default trends with respect to mortgages covering multifamily properties with special attention to mortgages insured under the various provisions of the National Housing Act and with recommendations on how such defaults and prospective defaults may be cured or avoided in a manner which, while giving weight to the financial interests of the United States, takes into full consideration the urgent needs of the many low- and moderate-income families that currently occupy such multifamily properties.

By Mr. EAGLETON (for himself, Mr. ABOUREZK, Mr. BAYH, Mr. BROOKE, Mr. CANNON, Mr. CASE, Mr. CLARK, Mr. CRANSTON, Mr. CULVER, Mr. DOLE, Mr. EASTLAND, Mr. FANNIN, Mr. HASKELL, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. JOHNSTON, Mr. KENNEDY, Mr. LEAHY, Mr. MCINTYRE, Mr. METCALF, Mr. MONDALE, Mr. MOSS, Mr. PACKWOOD, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH,

Mr. SCHWEIKER, Mr. HUGH SCOTT, Mr. SPARKMAN, Mr. SYMINGTON, Mr. TAFT, Mr. THURMOND, Mr. TOWER, Mr. TUNNEY, Mr. WILLIAMS, and Mr. YOUNG):

S. 2015. A bill to amend title 39, United States Code, to assure that certain publications of institutions of higher education continue to qualify as second-class mail. Referred to the Committee on Post Office and Civil Service.

Mr. EAGLETON. Mr. President, I am introducing legislation today which would reaffirm congressional intent regarding the maintenance of the 68-year-old second class mailing privilege for colleges and universities. Forty of my colleagues in the Senate have joined me in cosponsoring this needed legislation.

LEGAL BACKGROUND

At least since 1907, colleges and universities in every State have mailed catalogues and other course listings at second class mail rates. This practice was reaffirmed by legislative language written in 1912 which said:

All periodical publications of . . . a regularly incorporated institution of learning, or . . . a regularly established state institution of learning supported in whole or in part by public taxation . . . shall be admitted to the mails as second class matter . . .

In 1970, when the Postal Reorganization Act passed and all aspects of the mails were examined, this policy remained unchanged.

Recently, however, the U.S. Postal Service has begun removing this second-class mailing privilege from a large number of colleges and universities. Thus far 84 percent of those institutions of higher education reviewed by the Postal Service have been denied second-class rates.

The Postal Service now claims that many catalogs and other course listings mailed by colleges and universities do not qualify as periodical publications. The Postal Service bases its claims on a strict interpretation of a 1904 Supreme Court decision—Houghton against Payne—which lists the criteria for a periodical publication. The Postal Service claims that most college bulletins do not meet the criteria of, first, appearing at stated intervals; second, incompleteness of single issues; third, continuity between the different issues; and fourth, the requirement that the issues form a publication. This strict interpretation is presently under challenge by some affected colleges and universities.

The definition of a "periodical publication" contained in the 1904 Supreme Court decision was settled law when most college bulletins and catalogs were first admitted to second-class mail. The definition remained settled law for the past several decades during which the entitlements of these publications to second-class rates remained unquestioned and unchallenged. Since the character of these publications has not changed subsequent to their admission to second class, the actions of the Postal Service in suddenly attempting to revoke their second-class privileges are tantamount to making new law by administrative fiat.

THE IMPACT ON COLLEGES AND UNIVERSITIES

Thus far in my home State of Missouri, St. Louis University, Northwest Missouri State, and the University of Missouri have been notified that they will lose their second-class mailing privilege. According to C. Brice Ratchford, the president of the University of Missouri, the Postal Service's action will cause cost increases equivalent to the employment of two assistant professors.

The University of Texas at Austin has calculated that it will pay an additional $53,000 each year to maintain present delivery schedule through first-class mail. If the University of Texas substantially sacrifices delivery speed by mailing through third and fourth class, it will still have to pay an additional $18,000 each year.

Generalizing from these and other schools which have calculated the financial impact of this Postal Service decision, one can roughly conclude that switching from second class mail to third- and fourth-class mail would cost each institution approximately a tenfold increase in postage. Switching from second class to first class, in an effort to maintain good delivery service, would increase postage costs 30 times.

This is no time to be placing unnecessary financial burdens on colleges and universities. Increases in fuel costs, salary adjustments to keep abreast of inflation and other unavoidable cost-push increases have substantially upped tuition charges. In the last 10 years the cost of 4 years of tuition has increased from $5,500 to $9,000 in private colleges—which account for half the country's institutions of higher education. In public colleges 4 years of tuition has gone from $1,300 to $2,300. These figures do not include 4 years of books, fees, room, board, et cetera.

Increases in postal expenditures by institutions of higher education may very well be passed on and borne by the students. This kind of disincentive will not help the uncertain college enrollment trends of the last few years.

THIS BILL AND POSTAL REORGANIZATION

The Postal Reorganization Act of 1970 maintained the existing system of mail classification and created a new entity, the Postal Rate Commission, to issue, on the basis of detailed criteria specified by the Congress, a recommended revision of that system in the form of a new mail classification schedule. The bill I am introducing today does not reverse the intent of the 1970 Postal Reorganization Act and put the Congress back into the mail classification business. Instead, it affirms the act by maintaining the present classification schedule regarding colleges and universities.

Also, since Postal Reorganization, the subsidy for religious, scientific, fraternal and educational mail is not paid for by the U.S. Postal Service and, therefore, does not contribute to its deficit. Thus, these efforts of the Postal Service to cut back on educational postal expenditures by the Government do not even reduce the postal deficit but rather pertain to those areas specifically funded by Congress.

THE ECONOMICS OF THE ACTION

The congressional subsidy of college catalogs amounts to approximately 25 percent of the postage. Thus, in the case of Purdue University, the Postal Service action cuts approximately $660 from the Federal budget and requires the University to collect and expend an additional $18,000, at the very least. I question the economic wisdom of a policy which transfers the burden and also multiplies it. Even if the Postal Service were otherwise on solid ground, which it clearly is not, a policy which save one dollar and at the expense of $27 to $87 is not purdent.

THIS BILL NOT ANOTHER "WORTHY CAUSE" ISSUE

It is particularly important to note that this bill is not another in the long line of legislative proposals to reduce postage rates for pet "worthy causes" at the taxpayers' expense. The situation that has developed for colleges and universities has put them in a unique category. Their postage rate is already in the law and in practice. This bill is being introduced because the Postal Service has targeted them for removal.

According to the Postal Service the only other mailers who fit the category of being an ongoing program that is targeted for extinction by the Postal Service are: First, a few companies which mail looseleaf publications which provide current news concerning developments in the law and public policy for law offices, libraries, et cetera; second, a few companies which mail catalogs of "flowers by wire" florists; and third, a few companies which mail reprinted "tables of contents" for sale to the public.

Because colleges' second-class mail privileges are already in the law and in practice, maintenance of the program will not cost the taxpayer one additional cent. This is, of course, not true of pet "worthy cause" postage reduction bills.

THE NEED FOR IMMEDIATE ACTION

Of the 1,966 bills introduced during this session of Congress, only 10 have more cosponsors than this bill. Many of my colleagues who did not cosponsor the bill indicated that they would support its enactment.

The Postal Service purge of second-class mail for colleges and universities is an ongoing operation. Thus, expeditious congressional action is important. The cosponsors of this bill and I hope that the Senate Committee on the Post Office and Civil Service can schedule hearings on this issue as soon as is practicable.

By Mr. ROTH:

S. 2016. A bill entitled "Emergency Mortgage Relief Payments." Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. ROTH. Mr. President, I am today introducing legislation to provide Federal loans to help unemployed persons avoid home mortgage foreclosures. This legislation was a part of the Emergency Housing bill vetoed by President Ford yesterday. The housing bill had started out to be a measure to help prevent unemployed homeowners from losing their homes, but nearly $1 billion in questionable subsidies was added to the original bill during the floor debate.

What began as a commendable effort ended up as an unjustifiable measure which would have imposed substantial

costs on the American taxpayers. The final version of the bill is inflationary, ineffective and unfair to the majority of taxpayers who would have to pay the bill, and I support the President's veto.

However, I do think it is important to act quickly on the provision of the bill to authorize loans to the unemployed to prevent mortgage foreclosures.

Specifically, this legislation would allow people who have lost their jobs through no fault of their own to seek Federal loans of up to $250 per month to avoid mortgage foreclosures on their home. These loans would have to be repaid, with interest, to the Government, and they would be made only to persons who would be able to fully resume their mortgage payments when the economy recovers.

I think it is important for the Congress to provide relief in this area. The loan program will help the victims of the recession keep their most valued possession, while not increasing the burden on the American taxpayers.

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

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

S. 2016

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 "Emergency Mortgage Relief Payments Act of 1975."

SEC. 101. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make repayable emergency mortgage relief payments on behalf of homeowners who are delinquent in their mortgage payments.

(b) Emergency mortgage relief payments shall not be approved with respect to any mortgage unless—

(1) the holder of the mortgage has indicated to the mortgagor its intention to foreclose;

(2) the mortgagor and holder of the mortgage have indicated in writing to the Secretary and to any agency or department of the Federal Government responsible for the regulation of the holder that circumstances (such as the volume of delinquent loans in its portfolio) make it probable that there will be a foreclosure and that the mortgagor is in need of emergency mortgage relief authorized by this title, except that such statement by the holder of the mortgage may be waived by the Secretary if in his judgment such waiver would further the purposes of this title;

(3) payments under the mortgage have been delinquent for at least 2 months;

(4) the mortgagor has incurred a substantial reduction in income as a result of involuntary unemployment or underemployment due to adverse economic conditions and is financially unable to make the full mortgage payments;

(5) there is a reasonable prospect that the mortgagor will be able to make the adjustments necessary for a full resumption of mortgage payments; and

(6) the mortgaged property is the principal residence of the mortgagor.

As used in this title, the term "mortgaged property" includes, but is not limited to, property owned in fee simple, condominium units, mobile homes, or multiunit dwellings.

(c) Mortgage relief payments on behalf of a homeowner may be in an amount up to the amount of the principal, interest, taxes, ground rents, hazard insurance, and mortgage insurance premiums due under the mortgage, but such payments shall not exceed the lesser of $250 per month or the amount determined to be reasonably necessary to supplement such amount as the homeowner is capable of contributing toward such mortgage payment.

(d) Mortgage relief payments may be made by the Secretary for up to 12 months, and may be extended once for up to 12 additional months. The Secretary shall require the mortgagor to report any increase in income which will permit a reduction or termination of mortgage relief payments during this period.

(e) Mortgage relief payments made under this title shall be repayable by the homeowner upon such terms and conditions as the Secretary shall prescribe, except that interest on such payments shall not exceed 8 per centum per annum. Interest shall not begin to accrue until after the last payment made by the Secretary in behalf of the homeowner. The Secretary may defer repayment of the mortgage relief payments until the disposition of the property or the completion of the period of amortization for the mortgage. The Secretary shall require such security for the repayment of mortgage relief payments as he deems appropriate and may secure such repayment by a lien on the mortgaged property. The Secretary may make such delegations and accept such certifications with respect to the processing of mortgage relief payments as he deems appropriate to facilitate the prompt and efficient implementation of the assistance program authorized by this title.

NOTIFICATION

SEC. 102. Until 2 years from the date of enactment of this Act, each Federal supervisory agency, with respect to financial institutions subject to its jurisdiction, and the Secretary, with respect to other approved mortgagees, shall (1) take appropriate action, not inconsistent with laws relating to the safety or soundness of such institutions or mortgagees, as the case may be, to waive or relax limitations pertaining to the operations of such institutions or mortgagees with respect to mortgage delinquencies in order to cause or encourage forebearance in residential mortgage loan foreclosures, and (2) request each such institution or mortgagee to notify that Federal supervisory agency, the Secretary, and the mortgagor, at least 30 days prior to instituting foreclosure proceedings in connection with any mortgage loan. As used in this section the term "Federal supervisory agency" means the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration.

AUTHORIZATION AND EXPIRATION DATE

SEC. 103. (a) There are authorized to be appropriated for purposes of this title not to exceed $500,000,000. Any amounts so appropriated shall remain available until expended.

(b) Mortgage relief payments shall not be made after July 1, 1976, except with respect to mortgagors receiving the benefit of payments on such date.

REPORTS

SEC. 104. Within 60 days after enactment of this title and within each 60-day period thereafter prior to July 1, 1976, the Secretary shall make a report to the Congress on (1) the current rate of delinquencies and foreclosures in the housing market areas of the country which should be of immediate concern if the purpose of this title is to be achieved; (2) the extent of, and prospect for continuance of, voluntary forebearance by mortgagees in such housing market areas; (3) actions being taken by governmental agencies to encourage forebearance by mortgagees in such housing market areas; (4) actions taken and actions likely to be taken with respect to making assistance under this title available to alleviate hardships resulting from any serious rates of delinquencies and foreclosures; and (5) the current default status and projected default trends with respect to mortgages covering multifamily properties with special attention to mortgages insured under the various provisions of the National Housing Act and with recommendations on how such defaults and prospective defaults may be cured or avoided in a manner which, while giving weight to the financial interests of the United States, takes into full consideration the urgent needs of the many low- and moderate-income families that currently occupy such multifamily properties.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 123

At the request of Mr. INOUYE, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 123, a bill to amend the Social Security Act.

S. 1268

At the request of Mr. METCALF, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1268, a bill to establish congressional policy direction for the administration and management of the National Wildlife Refuge System; to establish the "National Wildlife Refuge Service"; to provide authority for study, review and establishment of additional units of the National Wildlife Refuge System, and S. 1293, a bill to establish the Charles M. Russell National Wildlife Range; the Charles Sheldon National Wildlife Range; and the Kofa National Wildlife Refuge as part of the National Wildlife Refuge System, and for other purposes.

S. 1303

At the request of Mr. INOUYE, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 1303, a bill to regulate the foreign commerce of the United States by providing means to assure full disclosure of significant foreign investment in the United States, and for other purposes.

S. 1425

At the request of Mr. EAGLETON, the Senator from Maryland (Mr. BEALL), the Senator from California (Mr. CRANSTON), the Senator from Maine (Mr. HATHAWAY), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Nevada (Mr. LAXALT), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Idaho (Mr. CHURCH) were added as cosponsors of S. 1425, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations contained in such act, and for other purposes.

S. 1652

At the request of Mr. STONE, the Senator from California (Mr. TUNNEY) was

added as a cosponsor of S. 1652, a bill to amend the Internal Revenue Code of 1954 to provide that no interest is payable on income tax deficiencies in the case of returns prepared by the Internal Revenue Service until the expiration of 30 days after notice to the taxpayer of such deficiency.

S. 1777

At the request of Mr. RANDOLPH, the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PELL), and the Senator from Missouri (Mr. SYMINGTON) were added as cosponsors of 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.

S. 1804

At the request of Mr. HANSEN, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 1804, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income the amount of certain cancellations of indebtedness under student loan programs.

S. 1926

At the request of Mr. SCHWEIKER, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 1926, the Health Maintenance Organization Amendments of 1975.

S. 1927

At the request of Mr. BIDEN, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 1927, the Equal Opportunity Act Amendments of 1975.

S. 1989

At the request of Mr. STONE, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Florida (Mr. CHILES) were added as cosponsors of S. 1989, a bill to direct the preparation and submission to the President of information to assist in negotiations with oil-producing countries.

SENATE JOINT RESOLUTION 90

At the request of Mr. DOMENICI, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of Senate Joint Resolution 90, a joint resolution to authorize the President of the United States to designate "National Ski Week."

SENATE RESOLUTION 195—SUBMISSION OF A RESOLUTION RELATING TO CUBAN POLITICAL PRISONERS

(Referred to the Committee on Foreign Relations.)

Mr. STONE (for himself and Mr. CHILES) submitted the following resolution:

S. RES. 195

Whereas the subject of human rights in Latin America is recognized as a matter of great importance by the United States;

Whereas the concern of the United States with respect to this matter has been reemphasized by the present Administration;

Whereas the Government of Cuba has refused to allow any inspection of areas where political prisoners are confined;

Whereas the subject of political prisoners confined in Cuba has received considerable attention on the part of such organizations as the Inter-American Commission on Human Rights of the Organization of American States, the International Red Cross, Amnesty International, the Inter-American Press Association, and the International Commission of Jurists;

Whereas Secretary of State Henry Kissinger has stated the intention of the United States to support a reappraisal of inter-American relations with respect to Cuba; and

Whereas the United States is a member of the Organization of American States; Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of State should request the Organization of American States to consider as soon as possible the condition of Cuban political prisoners and the need for thorough international inspection of all areas and facilities in which they are confined.

Mr. STONE. Mr. President, from the 16th to the 28th of July, the Organization of American States will meet in Costa Rica to consider amendments to the Rio Treaty of 1947 which would permit the lifting of its trade embargo on the Cuban Government by a simple majority vote of the member-nations.

Being a signer of the Rio Treaty, the U.S. Senate will have to consider any amendments recommended by this forthcoming OAS meeting. However, before this body considers any aspect of the OAS trade embargo on the Cuban Government, the Senator from Florida wants each of his colleagues in Congress to bear in mind certain important facts regarding Castro's treatment of political dissenters in Cuba.

Although the human rights issue in Chile or Greece or Brazil has received much attention from Members of this body and from the news media, the same issue has often been ignored by many with respect to Cuba. Perhaps this was so because such groups as the Inter-American Commission on Human Rights of the OAS, Amnesty International, the International Red Cross, and the Inter-American Press Association were themselves looking into this affair.

On May 2, 1975, the Inter-American Commission on Human Rights of the OAS officially condemned the Cuban Government for violating "the right to life, liberty, and personal security; to equality before the law; to a fair trial; of protection from arbitrary arrest and to due process before the law."

It is indeed difficult to understand the OAS's intention to consider the lifting of its trade embargo against Cuba, the same government which its Human Rights Commission has just denounced for violating man's most essential human rights.

In view of the fact that the United States is a member of the OAS and that the OAS Human Rights Commission has just denounced the violation of human rights in Cuba, I am submitting this resolution asking the Secretary of State to request the OAS to consider the condition of Cuban political prisoners. This is especially important now that a number of OAS member-nations favor the reappraisal of relations with Cuba, and in light of Secretary Kissinger's determination to support this reappraisal.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point two resolutions adopted by the Organization of American States relating to Cuba.

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

RESOLUTION ON CASE 1834 (CUBA)

Whereas:

By communication of April 16, 1974, various acts, imputable to the Government of Cuba, are denounced allegedly in violation of Articles I, II, XVIII, XXV and XXVI of the American Declaration of the Rights and Duties of Man.

In exercise of the authority granted it by Article 9 (bis) of its Statute, the Commission requested the Government of Cuba, by note of June 3, 1974, to provide the appropriate information and transmitted to it, at the same time, the pertinent parts of the aforementioned communication, in the manner established in Articles 42(1) and 44 of its Regulations.

At its thirty-fourth session (October 1974) the Commission considered a communication of October 24, 1974, furnishing additional information to that of April 16, in which the Government of Cuba is accused of acts and situations allegedly in violation of the rights to life, liberty and personal security; to equality before the law; to fair trial; of protection from arbitrary arrest and to due process of law.

Noting that the Government of Cuba had not replied to the request for information of June 3, 1974, it was also decided at that session to repeat the request with mention of the date on which the 180-day period of Article 51 of the Regulations would elapse and the application of the rule of the presumption of the confirmation of the allegations established in that article, and to transmit to the government, at the same time, the pertinent parts of the additional information submitted by the claimants and to request the appropriate information, as provided by Article 9 (bis) of the Statute and Articles 42(1) and 44 of the Regulations.

Pursuant to this decision a note was sent to the Government of Cuba on December 17, 1974.

The Government of Cuba has not responded.

Article 51 of the Regulations reads as follows:

"1. The occurrence of the events on which information has been requested will be presumed to be confirmed if the Government referred to has not supplied such information within 180 days of the request, provided always, that the invalidity of the events denounced is not shown by other elements of proof.

"2. The Commission may make an extention to the term of 180 days in cases in which it finds it justified."

Neither the formulation of observations nor, in general, the competence of the Commission to take cognizance of denunciations regarding violations of human rights committed in the territory of Cuba is barred by the measures adopted by the Organization of American States with respect to the present government of that country, since that government has not denounced the Charter of the Organization, provided for in Article 148 of the Charter, for which reason it is the duty of the Commission to continue to take cognizance of these deunciations.

In view of the systematic silence of the present Government of Cuba in the face of the numerous communications received from the Commission, it would serve no practical purpose to make the type of recommendations envisaged in Articles 9b and 9 (bis) b of the Statute. However, this does not pre-

vent the Commission from making known its considered opinion on the allegations to the General Assembly of the Organization of American States.

The Inter-American Commission on Human Rights resolves:

1. To presume the confirmation of the occurrence of the allegations contained in the communications of April 16 and October 24, 1974, in application of Article 51 of the Regulations.

2. To include this resolution in the Annual Report that the Commission presents to the General Assembly of the Organization (Article 9 (bis) *c* of its Statute) making known that the allegations constitute a very serious case of the violation of the rights to life, liberty and personal security; to equality before the law; to a fair trial; of protection from arbitrary arrest and to due process of law, set forth in Articles I, II, XVIII, XXV and XXVI of the American Declaration of the Rights and Duties of Man.

3. To transmit this resolution to the Government of Cuba and to the claimants.

RESOLUTION ON CASE 1847 (CUBA)

Whereas:

By communication of July 11, 1974, the following was denounced:

"Since early June, 44 Cuban political prisoners are being punished and deprived of all food and medical assistance in cell row number 12 at La Cabaña prison in Havana. Among them is journalist Pablo Castellanos who is gravely ill. We urgently request the intervention of that Organization to avoid new deaths in the Cuban political imprisonment."

In exercise of the authority granted it by Article 9 (bis) of its Statute, the Commission requested the Government of Cuba, by cable of July 12, 1974, to provide the appropriate information and transmitted to it, at the same time, the pertinent parts of the aforemention communication, in the manner established in Articles 42(1) and 44 of its Regulations.

In view of the lack of response by the Government of Cuba and taking into account the seriousness of the allegations contained in the denunciation, the Commission, by cable of August 9, 1974, repeated the request for the appropriate information to the Government of Cuba.

At its thirty-fourth session (October 1974) the Commission, noting that the Government of Cuba had not responded to the aforementioned requests for information, decided to repeat once more to the Government of Cuba the request, with mention of the date on which the 180-day period of Article 51 of the Regulations would elapse and the application of the rule of the presumption of the confirmation of the allegations established in that article.

Pursuant to this decision a note was sent to the Government of Cuba on December 17, 1974.

The Government of Cuba has not responded.

Article 51 of the Regulations reads as follows:

"1. The occurrence of the events on which information has been requested will be presumed to be confirmed if the Government referred to has not supplied such information within 180 days of the request, provided always, that the invalidity of the events denounced is not shown by other elements of proof.

2. The Commission may make an extension to the term of 180 days in cases in which it finds it justified."

Neither the formulation of observations nor, in general, the competence of the Commission to take cognizance of denunciations regarding violations of human rights committed in the territory of Cuba is barred by the measures adopted by the Organization of American States with respect to the present government of that country, since that government has not denounced the Charter of the Organization, provided for in Article 148 of the Charter, for which reason it is the duty of the Commission to continue to take cognizance of these denunciations.

In view of the systematic silence of the present Government of Cuba in the face of the numerous communications received from the Commission, it would serve no practical purpose to make the type of recommendations envisaged in Articles 9 *b* and 9 (bis) *b* of the Statute. However, this does not prevent the Commission from making known its considered opinion on the allegations to the General Assembly of the Organization of American States.

The Inter-American Commission on Human Rights resolves:

1. To presume the confirmation of the occurrence of the allegations contained in the communication of July 11, 1974, in application of Article 51 of the Regulations.

2. To include this resolution in the Annual Report that the Commission presents to the General Assembly of the Organization (Article 9 (bis) *c* of its Statute) making known that the allegations constitute a serious and repeated case of the violation of the rights to a fair trial and of protection from arbitrary arrest, set forth in Articles XVIII and XXV of the American Declaration of the Rights and Duties of Man.

3. To transmit this resolution to the Government of Cuba and to the claimants.

SENATE CONCURRENT RESOLUTION 47—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING "UNITED STATES SPACE WEEK"

(Referred to the Committee on the Judiciary.)

Mr. MOSS submitted the following concurrent resolution:

S. CON. RES. 47

Resolved by the Senate (the House of Representatives concurring),

Whereas a purpose of the United States space program is the peaceful exploration of space for the benefit of all mankind; and

Whereas the United States space program and its technology directly and indirectly benefit relations among countries, astronomy, medicine, business, air and water cleanliness, urban development, industry, agriculture, law enforcement, safety, communications, the study of the earth resources, weather forecasting, and education; and

Whereas the United States space program has an efficient organization and strong moral leadership, both of which serve as good examples to the people of the United States and to the people of all nations; and

Whereas the National Aeronautics and Space Administration and other organizations throughout the world involved in space exploration programs have cooperated in the cause of the peaceful exploration of space for the benefit of all mankind; and

Whereas the United States space program, through Project Apollo and other space efforts, has provided our Nation with scientific and technological leadership in space; and

Whereas the United States aerospace industry and educational institutions throughout the United States contribute much to the United States space program and to the Nation's economy; and

Whereas in the week of July 16 through 22, 1969, the people of the world were brought closer together by the first manned exploration of the Moon: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the President is requested to issue a proclamation designating the seven-day period of July 16 through 22 of each year as "United States Space Week", and calling upon the people of the United States to observe such period with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED FOR PRINTING

DETERMINATION OF SENATE ELECTION IN NEW HAMPSHIRE—SENATE RESOLUTION 166

AMENDMENTS NOS. 628 THROUGH 637

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

Mr. GRIFFIN submitted 30 amendments intended to be proposed by him to the resolution (S. Res. 166) relating to the determination of the contested election for a seat in the U.S. Senate from the State of New Hampshire.

AMENDMENTS NOS. 658, 659, AND 660

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

Mr. STEVENS submitted three amendments intended to be proposed by him to the resolution (S. Res. 166), supra.

AMENDMENTS NOS. 661 THROUGH 664

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

Mr. McCLURE submitted four amendments intended to be proposed by him to the resolution (S. Res. 166), supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 553

At the request of Mr. TUNNEY, the Senator from Vermont (Mr. LEAHY) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of Amendment No. 533, intended to be proposed to the bill (S. 598) to authorize appropriations for the Eenergy Research and Development Administration.

AMENDMENT NO. 586

At the request of Mr. PEARSON, the Senator from Utah (Mr. GARN) and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of Amendment No. 586, intended to be proposed to the bill (S. 692) the Natural Gas Production and Conservation Act of 1975.

ANNOUNCEMENT OF HEARING ON RESIGNATION OF DR. DIXY LEE RAY

Mr. PELL. Mr. President, on June 20, Dr. Dixy Lee Ray, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, announced her resignation from that position.

In resigning, Dr. Ray stated that the Bureau which she heads was not permitted to play a significant role in the formulation of policy relating to matters for which the Bureau has statutory authority.

Mr. President, I regret very, very much that the Department is losing the services of Dr. Ray. She has exceptional experience, capabilities, and qualifications.

I am also deeply concerned over the status of the Bureau within the Department. The Bureau was established by congressional direction to strengthen and

give added emphasis within the Department to policies involving the oceans and international environmental and scientific affairs.

Because of this concern, I announce that the Subcommittee on Oceans and International Environmental Affairs of the Foreign Relations Committee will hold a hearing at 9 a.m. on Thursday, June 26, 1975, in room 4221 of the Dirksen Senate Office Building to hear testimony from Dr. Ray.

WATER MARKETING ON THE MISSOURI RIVER—RESCHEDULING OF HEARING

Mr. CHURCH. Mr. President, I would like to announce for the information of the Senate and the public, the postponement of a hearing scheduled for June 26 before the Energy Research and Water Resources Subcommittee of the Senate Interior Committee.

The subject matter of the hearing is the recent signing of a memorandum of understanding between the Secretary of the Army regarding water marketing on the Missouri River.

The hearing has been rescheduled for July 18 at 10 a.m. in room 3110 of the Dirksen Senate Office Buliding.

ANNOUNCEMENT OF MARKUP ON PRODUCTIVITY LEGISLATION

Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Government Operations will meet to mark up legislation which would establish a National Center for Productivity and Quality of Working Life at 9:30 a.m., Thursday, June 26, in room EF 100 of the Capitol.

ADDITIONAL STATEMENTS

WE MUST NOT FORGET OUR MIA'S

Mr. BROOKE. Mr. President, last week I sent to President Ford a letter regarding the fate of the 1,300 Americans officially listed as missing in action in the Vietnam war. I did so because I am quite fearful that the fate of these brave men might otherwise be forgotten as we attend to other important national issues.

This must not happen; we must not forget these men. The U.S. Government has a very special responsibility to see that a full accounting of all our MIA's is forthcoming. This is the very least we can and must do for the families, friends and loved ones of these men.

Now, I am well aware of the lack of cooperation on the part of both Hanoi and the present government of South Vietnam in this matter. But this is no reason to abandon our responsibilities to our missing men. On the contrary, we should try to influence these governments to honor their commitment to help us obtain the full accounting we seek. In this regard I believe we should withhold any consideration of requests for economic aid to these governments until cooperation in this effort is forthcoming. And of course we should withhold any recognition of these governments until this matter is fully resolved.

Mr. President, I think it incumbent on all of us in Government to do whatever is necessary to clear up this vestige of the Vietnam war. I believe the issues I have raised with the President will help define the current status of our MIA accounting efforts, and I would like to bring them to the attention of my colleagues. Therefore, I ask unanimous consent that the full text of my letter to the President and the attached list of questions be printed in full in the RECORD.

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

U.S. SENATE,
Washington, D.C., June 19, 1975.

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

DEAR MR. PRESIDENT: It has been well over two years since the United States signed the Paris Peace Agreements and withdrew its forces from Vietnam. But today 1,300 Americans lost in that war are still unaccounted for. As you are well aware, for the families of these men the War is far from over. The uncertainty, the agony and trauma linger on. I am sure we share a deep sense of urgency in resolving this grave issue.

I am well aware that the governments in North and South Vietnam have refused to cooperate in our attempt to account for these Americans. However, their reluctance to cooperate should not cause us to abandon the responsibility we have to the MIA's and to their families. Rather, the United States Government must now reaffirm the commitment it made in the Paris Peace Agreements to obtain a full accounting of all our men classified as "missing in action." These men and their families deserve no less, and to do any less would be to dishonor the sacrifice they all have made.

My association with the families of the MIA's has been a long and sympathetic one. Their courage and patience through the long, agonizing years of fruitless waiting deserve the respect of the whole nation. But these families have doubts that our Government is doing all that it can to obtain information on the whereabouts of their loved ones. Their concern is that in our desire to put the War behind us, we have forgotten that the tragic MIA situation is still with us.

In an endeavor to address their concerns, and to re-examine the United States Government's efforts on behalf of those missing in action, I have enclosed several questions for the Executive Office, the National Security Council, and the State Department. I would deeply appreciate your help in securing prompt responses.

The haunting memory of our Indochina experience will not soon leave our nation's conscience. Nor should it, when 1,300 of our men are still unaccounted for. We must do everything possible to account for these men and I stand ready to help in any way I can to accomplish our mutual goal.

With very best regards, I am,
Sincerely,

EDWARD W. BROOKE.

QUESTIONS

1. What has the Executive Branch recently done to obtain a full accounting of our missing in action?

2. Has contact recently been made with the governments in Vietnam, Cambodia and Laos to reassure them of our continued deep concern over the MIA issue and our steadfast unwillingness to let it fade away? What renewed attempts, if any, have been made to obtain information on the MIA's from these governments?

3. Have the allies of the Indochina regimes, most notably Moscow and Peking, been contacted and requested to communicate our concerns on this issue to the Vietnam Government?

4. What channels of communication have been used to communicate our concerns to the Vietnam Government?

5. Has the United Nations been used as a vehicle for obtaining information about MIA's?

6. What other international organization involved in the Indochina relief efforts have been utilized to communicate our concerns to the Indochina governments?

7. What is the status of the Defense Department efforts to reclassify MIA's as "dead" or "presumed dead"?

8. What impact does this reclassification have on the benefits received by the surviving families?

9. The League of Families of American Prisoners and Missing in Southeast Asia, veterans' groups, and several of my colleagues on Capitol Hill, have many times requested that a top-level citizens' commission be appointed to study the present MIA situation.

(a) What is the status of that request?

(b) Why has such a commission not been appointed?

10. What steps, if any, has the United States Government taken to ensure that Article 8(B) of the Paris Peace Agreements, pertaining to MIA's, is duly enforced?

Has the U.S. Government in any way protested the blatant violation of this provision by the Communist Government in Vietnam?

11. Article 10(A) of the Paris Peace Agreements mandates the establishment of a "Four Party Joint Military Team" to "insure joint action by the parties in implementing Article 8(B) of the Agreement."

(a) What is the present status of the Four Party Joint Military Team?

(b) What impact have recent political developments in Vietnam had on this Team?

(c) What provisions have been made, if any, to ensure that the Team's duties and responsibilities are carried out?

(d) Have these duties and responsibilities been transferred to some other body?

VIETNAM ERA VETERANS

Mr. KENNEDY. Mr. President, it is unfortunate that the continuing plight of the Vietnam veteran must again be brought to the attention of the Congress and the Nation.

This year, in the Labor Department's annual report on veterans' services, submitted to the Senate Committee on Veterans' Affairs, we still find that significant segments of our Vietnam veterans having difficulty finding employment. Specifically, younger veterans, ages 20 to 24, currently have an unemployment rate of 9 percent compared with 7.1 percent for nonveterans of the same age. Black veterans have a jobless rate of 9.1 percent compared with 4.4 percent for white veterans. Although there are no currently available statistics on the number and the rates of unemployment for disabled veterans, a 1973 sample indicated that disabled veterans had an employment rate of 11.4 percent.

The report indicates that with a shift in emphasis to these particular trouble areas, we can do much to lessen the impact of rising unemployment for these categories of veterans. It is understandable that the statistical indicators of many of the programs aimed at helping the veteran will fluctuate with the employment trends in the Nation as a whole. But we must remember we owe our veterans, especially our Vietnam veterans, special efforts in helping them find meaningful employment.

In receiving the testimony during the hearings before the Senate Committee on Veterans' Affairs, I was particularly disturbed with a report on the "National Evaluation of Manpower Services for Veterans," prepared by Kirschner Associates, for the Department of Labor.

This extensive study dealt primarily with evaluation, analysis, and conclusions of the major manpower services for veterans. The report pointed out that one significant obstacle confronting the Vietnam veteran today, when he seeks employment, is the social and economic environment. As one of its conclusions the study states:

The current environment within which the Employment Service and other organizations must provide special manpower services to veterans is basically not supportive of and does not facilitate delivery of their services. Lagging aggregate demand for labor and a degree of indifference on the part of the public and public leaders regarding the employment problems of Vietnam era veterans contribute to the difficulty of providing effective manpower services to these veterans.

In this regard, the report further concluded that—

The veteran returning today (1972) is not likely to be welcomed home as a hero (even if he is a hero) because he has been involved with the military during a period of an unpopular war and growing disenchantment with the military "establishment." The young veteran also faces a degree of disenchantment with persons of his age group, on the part of some employers and some segments of the public.

One employer revealed that he would not hire "murderers," referring to Vietnam veterans.

While the Kirschner study was completed in 1972, and technically we have no more returning Vietnam veterans, I believe that this feeling of indifference and, in rare cases, hostility toward the Vietnam veterans still exists today. This belief has been confirmed in conversations I have had with Vietnam veterans.

This type of attitude on the part of employers and some segments of the public are very disturbing. Without public concern over the plight of the Vietnam veteran, and without cooperation on the part of private employers, all the programs designed to help the veteran find employment become ineffective.

This country knows how to show its appreciation to those who have loyally served their country in time of war. We all remember the jubilation and public displays of gratitude, as well as the generous GI benefits, that awaited our returning veterans after World War II and Korea. More recently, we rejoiced at the release of our POW's. Our gratitude and appreciation should be no less for the millions who gallantly served in Vietnam.

We welcomed the peace in Southeast Asia that was so long in coming and the popular cliche today is to "put Vietnam behind us" and turn our attention to serious domestic problems. However, we must remember that the effects of Vietnam are more lasting on those who served. So while we should be "putting Vietnam behind us," we should not lose sight of the fact that we have a continuing obligation to our Vietnam veterans.

We must not allow the failure of our policies in Southeast Asia to transmit itself into a feeling of failure on the part of the men and women who served there. The vast majority of those persons served with honor, dignity, and bravery during a war that was more widely disputed and seriously questioned than any war in our country's history. They served in the highest traditions of our Armed Forces.

The Vietnam veteran deserves the same recognition, praise, and the benefits for his service as was bestowed upon our veterans of other wars. We must renew our efforts to provide assistance for the veteran in areas of health care, education, rehabilitation, treatment for drug addiction, and employment.

The Congress can enact programs and set up the machinery to provide the help that is needed for our veterans, but we cannot legislate public opinion. It is our duty as elected officials to be aware of public opinion. We should be in the forefront of a concerted effort to reverse the feeling of indifference toward our Vietnam veterans.

Mr. President, an address by Secretary of Defense James R. Schlesinger, on April 29, 1975, appeared in the Parade section of many of the Nation's newspapers on Sunday, June 15. These remarks carry a message of gratitude for the service rendered by the 2 million men and women who saw duty in Vietnam. 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:

IN GRATITUDE

(By James R. Schlesinger)

As the last withdrawal of Americans from Vietnam takes place, it is my special responsibility to address to you, the men and women of our Armed Forces, a few words of appreciation on behalf of the American people.

For many of you, the tragedy of Southeast Asia is more than a distant and abstract event. You have fought there; you have lost comrades there; you have suffered there. In this hour of pain and reflection you may feel that your efforts and sacrifices have gone for naught.

That is not the case. When the passions have muted and the history is written, Americans will recall that their Armed Forces served them well. Under circumstances more difficult than ever before faced by our military services, you accomplished the mission assigned to you by higher authority. In combat you were victorious and you left the field with honor.

Though you have done all that was asked of you, it will be stated that the war itself was futile. In some sense, such may be said of any national effort that ultimately fails. Yet our involvement was not purposeless. It was intended to assist a small nation to preserve its independence in the face of external attack and to provide at least a reasonable chance to survive. That Vietnam succumbed to powerful external forces vitiates neither the explicit purpose behind our involvement—nor the impulse of generosity toward those under attack that has long infused American policy.

Your record of duty performed under difficult conditions remains unmatched. I salute you for it. Beyond any question you are entitled to the nation's respect, admiration, and gratitude.

LAW ENFORCEMENT IN ARIZONA

Mr. FANNIN. Mr. President, I am pleased to bring to the attention of my Senate colleagues the superlative record of law enforcement that is being accomplished by the police department of Scottsdale in my home State of Arizona.

Because of its superb training programs and its highly skilled force, the Scottsdale Police Department has earned a well-deserved reputation among the citizens of Scottsdale and law enforcement agencies in Arizona and throughout the country for providing low-cost maximum efficiency and effective police protection. Crime statistics are now so low in Scottsdale that the ration of the number of police officers to the city's population is one of the lowest in the Nation.

One of the reasons for the Scottsdale law enforcement success story is the program of police assistants that the city's police department has been running for several years, which has been funded since 1971 by grants from the Law Enforcement Assistance Administration. This program has worked so well in Scottsdale, with considerable savings to the taxpayers, that it merits the consideration of my colleagues.

I am inserting into the RECORD today a short article which was published in the Arizona Republic of April 27 as a part of a supplement entitled "Crime and Justice—You Are Involved." This article describes the police assistants program, which is now operating in Phoenix and other Arizona cities.

Those Members who look skeptically on the LEAA's programs of assistance to local law enforcement agencies should consider the effectiveness of the police assistants program in Scottsdale, Ariz.

Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD.

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

POLICE RATIO LOWEST IN NATION

A police department that saves money and successfully maintains one of the lowest ratios of police to population operates with maximum efficiency. The Scottsdale Police Department has achieved this largely through its highly effective program—"Police Assistants."

Begun under a LEAA Grant in July 1971 with an initial group of four college-bound assistants, the program in two years has saved 1,500 patrolman days in investigation and paperwork. The salary savings have amounted to $26,000.

More important, patrolmen were released from the endless detail duty of routine investigations and reports—some 5,500 of them—and zeroed in on the work they are trained to do: apprehending criminals.

In addition to being a major source of police recruitment, the program provides a crucial test by which young men and women discover whether they really want police work as a career. A year or more as a police assistant can be the deciding factor, thereby reducing the awesome costs of training unsuitable personnel or those who change their

mind. Since its beginning, three men and two women have been promoted from Police Assistant to Police Officer. However, it is not a requirement that Assistants be potential police officers.

Many large departments could usefully employ hundreds of assistants from among the handicapped. Many handicapped people make excellent detail workers. They are reliable and their absenteeism is one of the lowest in the work force.

The normal duties of the Police Assistant consist of all types of report taking, preliminary investigation of crimes, missing persons, runaways, lost and found property, vehicular accident investigation and traffic regulation.

In addition to Scottsdale, the City of Phoenix is now using Police Assistants.

MISSILES IN BERBERA

Mr. CULVER. Mr. President, the debate on the proposed U.S. base expansion on Diego Garcia has been unfortunately and unnecessarily focused on the issue of reported Soviet missiles at Berbera, in Somalia.

Reconnaissance photos have been displayed as if this were a replay of the Cuban missile crisis. But it is not.

The Soviet missiles said to be in Berbera are the old Styx type, which have been given to more than a dozen nations.

According to the best available public sources, this antiship missile became operational over 15 years ago—1959—has a limited range of only about 20 nautical miles, and carries only nonnuclear warheads. Even if a few have been sent to Berbera, they cannot be used until put aboard missile patrol boats.

The Russians have spread these missiles all over in the past—to the navies of: Algeria, Bulgaria, China, Cuba, Egypt, East Germany, India, Indonesia, North Korea, Poland, Rumania, Syria, Yugoslavia, and Iraq. While any weapon in hostile hands should be of some concern to us, we do not need to build a new Navy base and start policing the Indian Ocean because of a few missiles at Berbera.

In fact, the United States has its own array of antiship missiles, which can be fired from either ships or wide-ranging aircraft.

These missile scare tactics by the Pentagon have blurred the real issue surrounding Diego Garcia, which is whether we want to have a naval arms race in the Indian Ocean.

Despite repeated calls by the United Nations and the nations of the area, the United States has not approached the Soviet Union about mutual restraint in that area since 1971.

Our diplomats have been inactive, while the Navy has pushed ahead for this base. This military momentum for expansion is undercutting our foreign policy and is in arrogant disregard of the views of the countries along the Indian Ocean.

I do not think the American people want to become deeply involved and militarily committed to the Indian Ocean. Nor do I believe they will pay the high price tag of up to $8 billion for a three-ocean Navy.

The sad fact is, that the Defense Department has wanted to have this base for nearly 20 years, and would want it now, regardless of any Soviet activity. The reported missiles are just the latest argument on a long-playing record.

URBAN MASS TRANSPORTATION

Mr. GARN. Mr. President, as a member of the Subcommittee on Housing and Urban Affairs of the Banking, Housing and Urban Affairs Committee, at a hearing to consider S. 662, a bill to amend the Urban Mass Transportation Act of 1964, I heard testimony by Nassau, N.Y., County Executive Ralph G. Caso.

Without commenting on the specifics of his presentation, I was very interested in his closing comment. When speaking for the National Association of Counties—NACo—he stated a concern which I share regarding the overall transportation needs of the United States and how they must be a part of our Nation's energy policy.

I invite my colleagues to consider NACo's position and concern. I ask unanimous consent that the extract from his testimony be printed in the RECORD.

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

We in NACo fully support this effort. We fully endorse the statement that it shall be a matter of national policy that the handicapped have the same right as other persons to utilize mass transportation facilities and service. Our only concern is that the policies that are adopted be consistent with the overall transportation needs of the United States and that they be flexible enough to permit and to encourage local initiative.

In that light, I cannot close without urging the Congress to continue and to expand its support for public transportation.

Support for public transportation must be a part—and a key part—of any energy legislation enacted. Gasoline prices are rising sharply, in part by executive action and in part by expected OPEC actions. There are predictions that the price of gasoline could rise to as high as one dollar a gallon. But the increase in the price of gasoline will not be an effective conservation measure, and will not deter energy consumption, unless we have made public transportation a viable alternative to the private automobile. If we have not, the increased costs of gasoline will be only an additional, and very severe, hardship on those who have no place else to turn.

THE FAIR MARKETING OF PETROLEUM PRODUCTS ACT—S. 323

Mr. McINTYRE. Mr. President, I am pleased that the Senate has passed S. 323, the Fair Marketing of Petroleum Products Act. The bill incorporates two issues that I believe are at the heart of the marketing of petroleum products.

First, it protects the Nation's independent branded gasoline dealers from arbitrary lease cancellation, and pressures from the Nation's major oil companies, big oil.

Second, this bill protects an entire segment of the Nation's small business community from predatory economic policies that many of the Nation's big oil companies have been pursuing, by limiting the number of company owned and operated service stations that can be opened in any marketing area.

In recent years, major market shareholders, the Nation's 16 largest oil companies, have been opening company operated service stations at an alarming rate, and this trend is continuing.

For instance, a few years back, Mobil Oil Co. had only 50 company operated stations that I suppose were used predominantly for training purposes. Now, though, the company has 363, or 5 percent of all its stations that are company operated. One hundred and fifty-eight of these are full service stations like the independent franchised, branded Mobil dealer.

More to the point, Mobil has 106 of these stations in New Jersey. That high percentage exists in that State because of a franchise law that Mobil did not like.

Last December, William B. Butler, Mobil's general manager for resale, wrote to dealers saying:

We placed these stations on salary operation in response to a franchise act which took away the rights Mobil had as a property owner to determine the use of the property.

In other words, and these, Mr. President are Mobil's words, "we did this because we thought we had to."

Personally, I think that Mobil was afraid of its lessees and wanted to put them out of business.

The whole point of this is simple. If we passed a franchise protection act, without passing a section limiting the number of company owned and operated stations the 16 largest oil companies could run, we would find plenty of franchises, but no independent dealers to use them. They would be wiped out by the company stations selling on a predatory basis.

Therefore the combination of section 4 and section 5 of the bill will insure that the Nation's small business gasoline dealers get franchise protection and do not have their markets invaded by predators.

The entire point of this legislation is to insure that the Nation's small businessmen and consumers are protected.

This bill will encourage competition by protecting those forces which are competitive, the Nation's small independent branded gasoline dealers, from the unfair competitive advantage that occurs when a large, integrated major oil company drops in a new-company operated facility in a neighborhood which already has competition among the various segments of the industry. Big oil is not competing when that happens, it is smothering competition. As the independent operators are driven out, the consumer suffers.

Where is the consumer going to go for minor auto repairs at competitive prices? Who is the consumer going to call when he needs to be towed? When the unfair competitor has driven the independent businessman out of the retail or wholesale business, what is going to keep the price down? Not competition, because there will be none.

In the long run, the competitive system for delivery of petroleum products to consumers, which we currently have, the mix of independent branded franchisees and nonbranded independents, serves our communities best. The local dealers are our community leaders, our volunteer firemen, our churchmen, our Boy Scout

leaders, our Little League supporters, our friends. They plow our driveways, they tow our cars, they repair our flat tires, they lubricate our cars, and then they put money back into our communities.

MAINE BECOMES THIRD STATE TO DECRIMINALIZE MARIHUANA

Mr. JAVITS. Mr. President, Maine has given final approval to a new marihuana decriminalization law and becomes the third State—and the second State this year—to remove criminal penalties and jail sentences for possessing small amounts of marihuana.

The Maine law was passed last week exactly 1 month after Alaska voted to enact similar legislation. Oregon was the first State to adopt the concept of a civil fine for marihuana use in 1973. As the Senate knows, I and Senators CRANSTON, BROOKE, and NELSON have introduced S. 1450, now pending before the Senate Subcommittee on Juvenile Delinquency to substitute the civil fine approach for Federal criminal penalties for possession of up to one ounce of marihuana.

Gov. James B. Longley signed the bill on Wednesday morning, June 18, 2 days after the Maine Legislature gave overwhelming approval to the measure.

The new law, which becomes effective on March 1, 1976, calls for a maximum civil fine or not more than $200 for possession of up to one and a half ounces of marihuana. Enforcement is like a traffic violation, with a citation instead of an arrest. Misdemeanor penalties apply to possessing or transferring amounts in excess of one and a half ounces.

Maine's new marihuana law is part of an exhaustive legislative package that completely revamps the State's criminal code. The package is the result of nearly 3 years of work by a special criminal law revision commission headed by former Maine Attorney General Jon A. Lund.

GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, we have come to the point where ratification of the Genocide Convention is of importance to more than just America's image in the area of human rights. The danger of genocide is still real, and without ratification the United States will have no legal right to speak out.

This convention serves the fundamental American interest of building world law. It is an assertion by the community of nations that a certain particularly heinous act perpetrated against any group whatsoever is wrong not only in the domestic law of any State, but also in the law and opinion of the whole community of nations.

Our ratification would show that we are ready to go beyond professions of high principle and take a stand against destruction of groups of people because of their birth or their belief.

The decades that have passed since World War II have removed neither the recollection nor the threat of genocide in this 20th century world. Today, with all the technological improvements, the potential for genocide has been greatly enhanced.

The provisions of the Genocide Convention are fully in accord with the civil liberties and civil rights provisions in our Constitution. The convention is in all respects consistent with the laws and ideals of our Nation.

Genocide must be prevented from occurring, and the only feasible way is through an international convention. The failure of the United States to add its name to the list of signatory nations is a considerable embarrassment. I urge the Senate to take prompt action in ratifying the convention.

CAPT. THOMAS A. SMALL, 101, OLDEST LICENSED SKIPPER

Mr. GRIFFIN. Mr. President, in the troubled times we confront these days, it is heartwarming to learn of an occasional true story like the one I am about to relate.

I am indebted to Mrs. Frank V. Berklund of Gaylord, Mich., for bringing the information to my attention. It concerns her uncle, Capt. Thomas A. Small, who, shortly before he reached 101 years of age last October, was reissued his shipmaster's license. That made Captain Small the oldest licensed skipper registered in the records of the U.S. Coast Guard.

He was under 20 years of age when Thomas Small began his career. At the time of his retirement, Captain Small had sailed the Great Lakes for more than 70 years.

Comdr. Robert Ingraham, who heads the U.S. Coast Guard Merchant Personnel branch here in Washington, provided me with the following summary of Captain Small's service:

Historically, licenses issued by the United States Coast Guard and its predecessor agencies are valid for a period of 5 years from their date of issuance. The issue number, which appears in the upper right hand corner of a license, will have two parts, the first part indicating the number of licenses issued to the holder in the present grade and the second part indicating the total number of licenses issued to the holder in all grades.

The earliest record maintained at U.S. Coast Guard Headquarters for Captain Thomas A. Small concerned a license issued by a predecessor agency, the Department of Commerce and Labor, Steamboat Inspection Service. It indicates that on March 22, 1910, at Marquette, Michigan, that agency issued license 1, 4 to Captain Small, authorizing his service as master and first class pilot of steam vessels upon Lakes Superior, Michigan, Huron and Erie and connecting waters between Duluth, Chicago and Buffalo, unlimited tonnage.

The evidence indicates that the previous three issues of license authorized his service as first class pilot.

The records show that Captain Small was born in Collingwood, Ontario, Canada, on October 18, 1973, and became a naturalized citizen of the United States at a proceeding in Circuit Court, Au Train, Michigan, on February 17, 1899. His license was then subsequently renewed in 1915, 1920, 1925, and 1930 when it was increased in scope to include, "the Great Lakes and the connecting waters between Duluth, Gary and Buffalo", 1935, 1940, 1945, 1950, 1955 and 1960.

This last license was allowed to expire but on June 19, 1969, the Coast Guard Marine Inspection Office at St. Ignace, Michigan, again renewed his license. The last record indicates that Captain Small renewed a license authorizing service as master and first class pilot of steam and motor vessels of any gross tons upon the Great Lakes and their connecting and tributary waters between Gary, Duluth and Buffalo at St. Ignace on July 17, 1974. The issue number of this license is 13–16.

To the best of our knowledge, Captain Small is the oldest person to have been licensed to date and is the holder of the license with the highest issue number. It reflects having been licensed by the United States for upward of 75 years.

I commend Commander Ingraham and the Coast Guard for their thoughtfulness and consideration in reissuing Captain Small's license.

From Mrs. Berklund we learned that Captain Small is doing very well. Recently she wrote me as follows:

He had always thought he would spend his last days in the Marine Hospital in Detroit but when that passed out of existence, as such, he found a good home in a privately owned home for elderly people, but they must be ambulatory and he is that. He has a bad knee and it is hard for him to walk. But he forces himself to exercise as much as possible, and he is mentally very alert—at almost 102."

I am pleased on this occasion to salute Captain Small, and to extend him warm best wishes for continued good health and happiness as the oldest living skipper.

RURAL DEVELOPMENT: A CASE OF UNMET NEEDS

Mr. HUMPHREY. Mr. President, I wish to point out a recent address by Representative CHARLES ROSE on the inadequate way in which the Rural Development Act of 1972 has been administered by the Department of Agriculture.

As one of the main authors of this legislation, I have spoken on many occasions as to both the importance of this measure and the paucity of effort and funding which has been provided by the Department of Agriculture.

It is all too clear that the need for this program has not diminished, and with the investment of the modest sums that have been provided rather significant results can be achieved.

The conclusion of the statement of Representative ROSE is that the Department has not utilized the authority provided in this act, and, in rather significant ways, the Department has attempted to downplay this program.

Mr. President, these rural development activities are significant to our rural people. They represent jobs and a better life. Our rural people deserve a better chance than they have had in the past. They are entitled to more than second class citizenship and limited economic opportunities. We need to see the flow of funds increasing for our rural areas.

Mr. President, I commend these remarks of Representative ROSE to the attention of my colleagues, and I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the state-

ment was ordered to be printed in the RECORD, as follows:

RURAL DEVELOPMENT: BROKEN PROMISES

Mr. Speaker, the Subcommittee on Family Farms and Rural Development of the Committee on Agriculture has just finished two exhaustive days of oversight into the administration of—and expenditures under—the Rural Development Act of 1972.

As Chairman of this Subcommittee, I was astounded and saddened to learn that the Department of Agriculture has used precious little of the authority given it under this legislation to improve the quality of life in rural America.

For the past two days, we have made a section-by-section analysis of the statute and asked Department officials for detailed responses on how they have implemented the specific mandates of the Act. Time after time we were told that some particular authority had not been implemented because some other agency within USDA or some other department or agency of the government was providing similar service.

After numerous such responses, I observed that if the officials of the Rural Development Service had been around two centuries ago when the Bill of Rights was being considered, they might have said it was a good idea. But why bother, since we already have the Ten Commandments?

Mr. Speaker, the Rural Development Act—duly enacted by the Congress and signed into law by the President—says that the Secretary of Agriculture "shall assume responsibility for coordinating a nationwide rural development program. . . ." The Act further directs him to "utilize to the maximum extent practicable" each of the offices within his Department "to enhance rural development."

That has not been done.

Specifically, the assistance to the small cities and towns of this country envisioned in this law has not been carried out.

Expanded grant and loan programs for water and sewer construction in rural America have not been implemented.

The mandate of Congress for adequate rural housing through rent supplements and other programs has been ignored.

Title IV of the Act providing a program of rural community fire protection has been totally neglected. The President even attempted to rescind the funds forced on the Department by the Appropriations Committee. Only after Congress rejected this effort did the money begin flowing to State forestry officials.

Minimal funding of Title V, which provides research and education monies, produced some spectacular success stories of dying towns given new life through self-help motivation. Yet, the Administration does not recommend that these efforts be continued, but argues instead that the Agricultural Research Stations or the Extension Service could do the job as well.

Hardly a protest was made when the Office of Management and Budget arbitrarily eliminated "Rural Development" as a functional category within the Federal Budget—yet the Secretary is charged with providing "leadership and coordination within the Executive Branch" by this law.

It is one thing, Mr. Speaker, to fight the good fight and lose. But not to fight at all is to betray the hopes and dreams of those millions of citizens who still have faith in rural America.

The facts presented at these hearings show that every time rural development comes up for funding, the Administration has consistently refused to request that funding. In addition, the Administration has shown a continuing disregard for the intent of the Act by transferring funds, ignoring mandates of the various titles of the Act and switching funding sources.

When the Congress passed the Rural Development Act, the directive to the Department of Agriculture was that this legislation was the vehicle to channel the tax dollars of rural America back to their communities.

From what we have seen during these hearings, the Department is laughing in the faces of rural America—laughter that I and other Members of the Subcommittee strongly resent.

In the past, as OMB has gone, so have gone the Members of Congress who were thoroughly intimidated by the awesome power of the Budget and the arm-twisting tactics of the Executive Branch.

But now, Mr. Speaker, there is new blood here—a new Congress, with a new Agriculture Committee and a new Budget Committee.

I told the Assistant Secretary of Agriculture for Rural Development, Mr. William W. Erwin, and a dozen of his associates responsible for administering this Act, that our Subcommittee was prepared to give them a little transfusion of courage so that they can fight for full funding for rural America.

Mr. Speaker, the New York Times this week headlined the results of new projections by the Census Bureau indicating the rural areas of the country are growing faster than urban areas.

People are moving out of urban areas at a greater rate than others are moving in. This trend is without precedent. Since 1970, our young agrarian nation has moved toward an urban society.

An old farmer in my District had a very profound comment about all the city folks moving into the rural areas: "Whatever it is they're trying to get away from, they're bringing it with them."

These problems—health, housing, pollution of water and air, transportation—are the problems caused by people. And these are the very problems the Rural Development Act is designed to confront.

The promise of a better life is still vivid for most of rural America. The Congress has given the Department of Agriculture the mandate and authority to make that promise come true. They must act to see that it does.

THE "MAYAGUEZ" INCIDENT

Mr. BROOKE. Mr. President, on May 15 of this year, during the final stages of the *Mayaguez* incident, I submitted a list of questions to Secretary of State Kissinger regarding that affair. My purpose in doing so was to obtain as much information as possible for the public record so that the Congress and the American people could make informed judgments regarding the decision to use force in effecting the release of the *Mayaguez* crew and ship.

I have now received replies to my inquiries, both from the Department of State and the Joint Chiefs of Staff office. The answers to my questions, while certainly not all inclusive regarding the *Mayaguez* affair, provide some useful insights into the events that took place and the decisionmaking that led to those events. Therefore, I ask unanimous consent that a letter I received from the President on the subject and the responses of the State Department and the Defense Department to my original letter be printed in the RECORD in full immediately after my remarks.

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

(See exhibit 1.)

Mr. BROOKE. Mr. President, I am convinced that the full account of the *Mayaguez* incident may not be available for many months and perhaps it may never be available in a form that will satisfy all interested parties. Yet, it is still possible, even at this early date, to identify certain lessons we should learn from this incident.

First, the evident inability to set up adequate communication channels between ourselves and the Cambodians, either directly or indirectly, indicates the great dangers of lack of communications between belligerents under crisis conditions. While these dangers were narrowly circumscribed in the *Mayaguez* incident, lack of ability to communicate intentions in an understandable and expeditious manner greatly increased the chances that force would be used to achieve some resolution of the crisis.

Second, the failure of the United States to provide adequate warning to U.S.-flag vessels and others of harassment by the Cambodians of other vessels that had taken place prior to the seizure of the *Mayaguez* indicates a further breakdown in communications, this time within our own communications network. There is evidently a need to strengthen our capacity to provide adequate warning of potential dangers of this nature on an immediate basis in potential or actual trouble spots.

Finally, the resort to force, whether or not it is justified, inevitably results in unforeseen and usually undesirable consequences. The sobering loss of life in the assault on Koah Tang island, and the subsequent revelation that the *Mayaguez* crew had apparently left the island prior to the assault, is indicative of the costly and imprecise nature of the use of force in achieving goals, limited or otherwise.

EXHIBIT 1

THE WHITE HOUSE,
Washington, May 21, 1975.

HON. EDWARD W. BROOKE,
U.S. Senate,
Washington, D.C.

DEAR ED: I note that on Thursday, May 15, you spoke on the floor of the Senate regarding the SS MAYAGUEZ incident. I appreciate the questions you have raised, but let me assure you that I made the decision to use force after evaluating all of the options available. I kept the leadership of Congress fully informed of my decisions. I decided to use the Marine and military forces only after the Cambodian Government failed to give any response to our diplomatic protest and demand that the ship and the crew be released.

I think in retrospect my decision was correct.

With kind personal regards,

Sincerely,

JERRY FORD.

DEPARTMENT OF STATE,
Washington, D.C., June 20, 1795.

HON. EDWARD W. BROOKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BROOKE: The Secretary has asked me to reply to your letter of May 15, inquiring about the *Mayaguez* operation. Listed below are the answers to your questions in the order that they were given in your letter. In order to expedite the replies to the questions focused primarily on military matters, we have asked the Department of Defense to reply directly to you.

1. Did the *Mayaguez* violate any territorial or sovereign rights of Cambodia?

Answer: No. The vessel was on the high

seas in international shipping lanes commonly used by ships calling at the various ports of Southeast Asia. It was seized about seven nautical miles from the island of Poulo Wai. The United States recognizes a three nautical mile territorial sea and, in our view, the seizure took place on the high seas. Even if, in the view of others, the ship were considered to be within Cambodian territorial waters, it clearly would have been engaged in innocent passage to the port of another country. Thus, whatever view is taken regarding the legal status of these waters, the vessel's seizure was unlawful and involved a clear-cut illegal use of force.

2. What was the basis for our government's claim of the illegality of the seizure of the *Mayaguez* by the Cambodians?

Specifically:

(a) Was the island off of which it was seized a recognized possession of the Cambodian government?

Answer: Both South Viet-Nam and Cambodia have claimed this island.

(b) How far off the island was the *Mayaguez* when it was seized?

Answer: About seven nautical miles.

(c) What are the recognized limits of territorial control of waters off the islands in the area?

Answer: The United States recognizes a three nautical mile limit. South Viet-Nam previously claimed a territorial sea of three nautical miles. Cambodia previously claimed a territorial sea of 12 nautical miles. However, the positions of the current regimes on this question are uncertain.

(d) Do the Cambodians claim a twelve mile limit?

Answer: The former government claimed a twelve nautical mile territorial sea, but, to our knowledge, the present authorities have not announced any position regarding the matter of any specific width of territorial sea. They have, however, claimed that the *Mayaguez* was in Cambodian territorial waters when it was seized.

(e) Does the United States Government recognize only a three mile limit?

Answer: Yes, we recognize only a three mile territorial sea.

3. What cargo was the *Mayaguez* carrying?

Answer: It was carrying commercial cargo and Department of Defense cargo, including such items as spare parts and supplies but not including arms, ammunition or electronic gear.

4. What was the port of origin and the destination for this specific voyage of the *Mayaguez*?

Answer: The *Mayaguez* was enroute from Hong Kong to Sattahip in Thailand.

5. What was the purpose of the *Mayaguez's* voyage?

Answer: The purpose of the voyage was commerce.

6. Was the *Mayaguez* an armed ship?

Answer: No. The *Mayaguez* was unarmed.

7. What has been the scope of our intelligence gathering operations in the area where the seizure took place? Was the *Mayaguez* in any way connected with such operations?

Answer: The *Mayaguez* was not a spy ship nor was it in any way involved in intelligence operations. There were no U.S. intelligence activities underway in the vicinity.

8. Was the *Mayaguez* in prior contact with U.S. Government aircraft or ships prior to the seizure?

Answer: We have no record to indicate that it was in contact with U.S. Government craft. The distress message was picked up in commercial channels.

9. What was the specific and detailed time frame and sequence of such events from the point of seizure, the demand for the return of the ship and crew, the requests for third party help and time of the first U.S. attack?

Answer: We received first notification that the ship had been seized about 0500 Monday morning, May 12. On Monday afternoon, the head of the Chinese Liaison Office here came to the State Department at our request, and was given a message which was essentially the same as the President's public statement. When the Chinese refused to accept the message, we sent the same message to our mission in Peking for delivery to both the Chinese and Cambodians there. No reply came from either the Chinese or Cambodians. On May 12, U.S. reconnaissance aircraft, in the course of locating the *Mayaguez*, sustained minimal damage from small arms fire.

On the morning of the 13th, in order to prevent the movement of the *Mayaguez* to a mainland port, U.S. aircraft fired warning shots across the bow of the ship and gave visual signals to small craft approaching the ship. Subsequently, in order to stabilize the situation and preclude removal of the crew to the mainland where their rescue would be more difficult, U.S. armed forces were ordered to isolate the island and to interdict any movement between the ship or the island and the mainland, and to prevent movement of the ship itself, taking all possible care to prevent loss of life or injury to the U.S. captives. During the evening of May 13, a Cambodian patrol boat attempting to leave the island disregarded aircraft warnings and was sunk. Thereafter, three other Cambodian patrol craft were destroyed in the vicinity of the island. One boat, suspected of having some U.S. captives on board, succeeded in reaching Kompong Som after efforts to turn it around without injury to the passengers failed. In addition, five other Cambodian craft were later sunk in the efforts to protect the Marine forces on Koh Tang.

10. When did the United States Government first receive notice of the seizure, and what attempts were made at that time to communicate with Cambodian officials to register our protest and indicate our intentions to do what was necessary to obtain the release of the crew and its ship?

Answer: See answer to Question 9.

11. What attempts were made to obtain the intercession of third parties, including the United Nations, to effect a diplomatic resolution of the incident? Exactly who was contacted, what was requested of each, and what was the timing of those contacts in relation to the decision to resort to force and the actual use of force?

Answer: The timing of our approach to the Chinese is noted above as is the first use of force by U.S. armed forces. Since no reply had come from the Cambodians or the Chinese, early on the afternoon of May 14 we asked the Secretary General of the United Nations to use his good offices to obtain release of the *Mayaguez* and its crew. The Secretary General's effort elicited no response from the Cambodians until several days after the rescue of the ship and crew. Later that afternoon, orders were issued to begin the military operations for the recovery of the ship and crew. The Marines did not take action to recover the ship and crew until that evening.

12. What, if any, communications were received, directly or indirectly, from the Cambodian government prior to their radio announcement that they would be willing to return the crew and ship? What, if any, communications did we try to forward to that government prior to that announcement and prior to the use of force?

Answer: We received no communications from the Cambodian government prior to the public radio announcement received shortly after 2000 Wednesday. This was a domestic broadcast in the Cambodian language which did not state that the vessel and crew would be released but only said that the vessel would be released. It was not directed to the United States. As noted above, we tried to reach them directly in Peking and through the Chinese prior to any use of force and additionally tried to reach them through the UN before the Marines were ordered to recover the ship and crew. After receiving the public radio message, we took measures to inform the Cambodian government of the fact that we would stop all military operations when the crew was released. We also released to the press the statement we had broadcast to Cambodia.

Cambodian forces continued to attack U.S. forces on Koh Tang after the crew was released and therefore U.S. military action continued in order to effect the earliest possible extraction of the Marines on the island.

13. What exactly precipitated the initial attacks on the Cambodian naval vessels?

Specifically:

(a) Was there a Cambodian attempt to move the crew or the *Mayaguez* after the ship had been anchored off Tang Island?

Answer: Yes. For details, see separate answer by DOD.

(b) How many of our reconnaissance craft had been fired upon and hit prior to our resort to force?

Answer: To be answered separately by DOD.

(c) Were the Cambodian patrol craft that were destroyed or disabled moving toward the *Mayaguez* when they were interdicted?

Answer: To be answered separately by DOD.

(d) Had the crew of the *Mayaguez* been removed from the *Mayaguez* prior to the time we initiated our use of force?

Answer: To be answered separately by DOD.

14. What were the targets of our attacks on the mainland? Did our attacks serve any immediate purpose directly related to the rescue of the crew and the ship or were they primarily punitive in nature?

Answer: To be answered separately by DOD.

15. What are the details regarding the deaths and injuries of members of our armed forces?

Answer: To be answered separately by DOD.

16. Had there been other reported incidents of harassment of other vessels by Cambodia prior to the seizure of the *Mayaguez?* If so, why weren't instructions sent to all U.S. flag vessels to divert from the area?

Answer: Yes. Both the Department of State and the Department of Defense are involved in issuing special warnings to U.S. commercial vessels about the possibility of military action, but the need to issue such warnings has been relatively rare. This, coupled with the fact that it was not immediately apparent, to those throughout the government who received the information on Cambodia's attack on a South Korean freighter on May 4 and its detention of a Panamanian ship on May 7, that American ships happening to pass in the area might possibly be in danger, resulted in no warning being immediately issued. A special warning was issued on the day we learned that the *Mayaguez* was seized.

17. How many combat forces and how many ships were actually involved in the rescue operations?

Answer: To be answered separately by DOD.

18. How many combat forces were landed on the *Mayaguez* and on Tang Island?

Answer: To be answered separately by DOD.

19. Were troops transported to Thailand contrary to the express requests of the Thai government? What communications were received from the Thai government in reference to the incident and the potential and now actual use of U.S. bases in Thailand as staging areas? What was the U.S. reply to Thai requests?

Answer: As Secretary Kissinger recently pointed out, in the course of this decade it may be that a pattern of action has developed that made us assume that our lat-

itude in using Thai bases was greater than the current situation in Southeast Asia would permit to the Thai government. Insofar as we caused any embarrassment to the Thai government, we expressed our regrets at those actions. The Thai subsequently stated that they were satisfied with our note expressing regret.

20. What was the degree of resistance encountered on Tang Island? How much ammunition was expended by our forces?

Answer: To be answered separately by DOD.

21. What were the number of U.S. and Cambodian casualties?

Answer: To be answered separately by DOD.

22. Exactly how were the crew members of the *Mayaguez* recovered? Were any of them harmed in any way? Were the crew members released by the Cambodians or were they actually rescued?

Answer: The crew members were taken off a Thai fishing boat. None were harmed by the Cambodians. The Cambodians released the crew to the Thai fishing boat following the several military and diplomatic actions summarized above.

We appreciate your interest in obtaining an understanding regarding the actions taken by the Administration in order to rescue the *Mayaguez* and crew. Although the subject is not specifically addressed in your questions, I am sure you are aware that the Administration's principal concern was to react swiftly and responsibly in order to save the lives of the crew and to recover the vessel.

The Administration acted to prevent that crew from being interned and their lives jeopardized, as the crew of the USS *Pueblo* was, and to make clear to the Cambodian Government and to all other governments that the safety of its sailors and the freedom of the seas for its vessels were matters of great concern to the American Government and people.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

THE JOINT CHIEFS OF STAFF,
Washington, D.C., June 18, 1975.

Hon. EDWARD W. BROOKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BROOKE: The Department of State has requested that I further respond to your letter of 15 May 1975 with regard to the rescue of the *Mayaguez* crew.

The following answers are keyed to your questions:

13a. Was there a Cambodian attempt to move the crew or the *Mayaguez* after the ship had been anchored off Tang Island?

Answer: The crew was initially taken to Kaoh Tang Island and later moved to Kompong Som subsequent to the anchoring of the ship off Koh Tang Island. Reconnaissance aircraft received indications thereafter that a possible effort to move the ship was being prepared. It was later determined that this was an erroneous indication.

13b. How many of our reconnaissance craft had been fired upon and hit prior to our resort to force?

Answer: Two reconnaissance aircraft were struck by small arms fire prior to the landing of the Marine Force on either the vessel or the island. Other aircraft were fired upon, but we have no exact count as to how many.

13c. Were the Cambodian patrol craft that were destroyed or disabled moving toward the *Mayaguez* when they were interdicted?

Answer: Reports currently available do not clearly indicate whether or not the Cambodian vessels were moving toward *Mayaguez* at the time they were attacked. The President's orders were to interdict any movement between the ship or the island and the mainland.

13d. Had the crew of the *Mayaguez* been removed from the *Mayaguez* prior to the time we initiated our use of force?

Answer: Yes.

14. What were the targets of our attacks on the mainland? Did our attacks serve any immediate purpose directly related to the rescue of the crew and the ship or were they primarily punitive in nature?

Answer: The attacks on the mainland were all related to the rescue of the crew and the ship or protecting the Marine Force on the island. None of them were punitive in nature. Targets included the Ream Airfield and Naval Base and Kompong Som Port Complex and Naval Facility.

15. What are the details regarding the deaths and injuries of members of our armed forces?

Answer: Of the forces involved in rescue of the *Mayaguez* and its crew, there were 15 killed in action, 50 wounded in action, 3 missing in action for whom there is little hope of recovery. Thirteen of the fatalities were personnel aboard the CH–53 helicopter that crashed and burned during the initial landing on Kaoh Tang Island.

17. How many combat forces and how many ships were actually involved in the rescue operations?

Answer: Approximately 300 Marines and 8 naval vessels were engaged in the rescue operation. They were supported by approximately 340 Air Force sorties. The naval vessels included an aircraft carrier from which approximately 60 sorties were launched.

18. How many combat forces were landed on the *Mayaguez* and on Tang Island?

Answer: There were about 240 Marines inserted on Kaoh Tang and about 65 were placed on the USS *Holt* for transfer to *Mayaguez.*

20. What was the degree of resistance encountered on Tang Island? How much ammunition was expended by our forces?

Answer: Resistance on the island was reported by the Ground Security Force Commander to have been stiff, determined, and professional. The resistance was characterized primarily by recoilless rifles, mortars, machine guns, and rifles. We have no exact count of ammunition expended by our forces.

21. What were the number of U.S. and Cambodian casualties?

Answer: US casualties were 15 KIA, 50 WIA, and 3 MIA. We believe that hostile casualties inflicted by the Ground Security Force are in the neighborhood of 25–30. No precise estimate of total casualties can be reasonably made although the nature of the mission and the ordnance employed were such as to ensure that civilian casualties on the mainland were minimized.

I hope this information is sufficient to your needs. In the event I may be of further assistance, please advise.

Sincerely,

ZANE E. FINKELSTEIN,
Colonel, JAGC, U.S. Army, Legal Adviser & Legislative Assistant to the Chairman, JCS.

HOUSING BILL VETO WILL PROLONG RECESSION AND DELAY HOUSING GOALS

Mr. BENTSEN. Mr. President, President Ford's veto yesterday of the Emergency Housing Act, which the Senate passed on April 24 by the overwhelming margin of 64 to 26, is a serious economic mistake that will prolong the recession and delay for years the achievement of our national housing goals.

Unemployment today is our most serious national problem. The unemployment rate has hit 9.2 percent, the highest it has been since the Great Depression. Over 8.5 million Americans are currently jobless, and during this year more than 25 million workers will experience the personal tragedy of being without work. This means 25 million families who will be without paychecks, who will see their savings eaten away, who will fall progressively deeper in debt, and may even see their homes and possessions imperiled by the threat of repossession.

While the economic prospects for these Americans is dismal, for many of those who depend on the construction industry for their livelihood the future holds nothing but despair. Unemployment among construction workers nationwide is now 21.8 percent, higher than the unemployment rate for any other sector of the economy. For housing workers, in certain areas of the country, the unemployment rate is as high as 40 percent.

The collapse of the housing industry last year led us into this recession and we need a strong housing industry now to help lead us out. But housing is still in a severe depression. Housing starts during the first 5 months of this year were 35 percent below last year's already depressed levels and only one-third the number needed to meet our national housing goals. The May upturn in housing starts was welcome, but a 1-month change is no sure harbinger of recovery—the number of starts for May was at a 28-year low for the month, and the number of building permits issued was 20 percent below the number for May 1974.

For the 900,000 idle construction workers and for hundreds of thousands of others in the furniture, home furnishings, and household appliance industries, the 800,000 construction jobs and the 400,000 new homes promised by this bill would have been a major step toward ending the recession. But President Ford's veto has almost guaranteed that these jobs won't be there.

The housing bill also provided relief for over 100,000 unemployed homeowners whose lives have been disrupted by the Damocles sword of possible foreclosure by mortgage companies and banks. For these 100,000 families, President Ford's veto means that the day of eviction and loss of a home moves steadily closer.

President Ford's announcement that he will, instead, provide $2 billion more for the Government National Mortgage Association and request authorization for an added $7.75 billion is no substitute for the vetoed bill. What the President proposes is just not enough.

The existing program is useful when mortgage money is unavailable, but that is not the case today. What is missing is purchasing power and confidence. The new housing legislation would have provided this.

At current housing prices and mortgage rate, less than 20 percent of American families can afford to buy homes. For too many American families, the dream of their own home has been shattered. The housing bill would have brought these families once again within

sight of their dream by lowering mortgage rates to 6 percent, saving the average family more than $60 a month and stimulating 400,000 new homes within the budget of middle-income families. These families could not afford 8½-percent mortgages yesterday and they still cannot. President Ford's veto again shatters the dream of a new home for 400,000 American families.

Finally, if President Ford sincerely believes that the $2 billion in funds being released to GNMA to purchase mortgages and free funds for S. & L.'s and other mortgage lenders will stimulate new housing construction, why has he waited until now to do it? These funds were available months ago. Why did President Ford need prodding from Congress to take an action that anyone concerned about people and jobs would have taken long ago. This delay is just another instance of this administration's disregard for the real needs of the American people, for jobs, for paychecks, for homes.

The fact of the matter is that Congress, by enacting this legislation, took a much-needed step to breathe new life into the deeply troubled housing industry and President Ford, by his veto, has dealt it a new blow.

COMMENCEMENT ADDRESS BY MRS. HENRY M. JACKSON

Mr. MONTOYA. Mr. President, recently Mrs. Henry M. Jackson, a native of New Mexico, visited my State to give a commencement address at Highlands High School in Albuquerque.

We were delighted to welcome Mrs. Jackson, who is a native of New Mexico. She spoke movingly to our young people about the problems and possibilities of democracy in these troubled times. I ask unanimous consent that her address be printed in the RECORD.

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

COMMENCEMENT ADDRESS BY MRS. HENRY M. JACKSON

During the past 25 years our country has experienced both triumphs and tragedies. On the one hand we have seen the development of peaceful uses of nuclear power, the exploration of space and six voyages to the moon. We elected our first Catholic as President of the United States, conquered polio, extended the life expectancy of our citizens by advances in medicine and science, invented television and the transistor, and granted full citizenship to American minorities.

On the other hand we have been tyrannized by the late Senator Joe McCarthy, frustrated by a difficult war in Southeast Asia, horrified by the assassinations of a President, his brother and Martin Luther King, and shocked by Watergate. We have seen the family as an institution put to severe tests and religious values questioned. We have watched with dismay the rise in crime and in unemployment, the widespread use of drugs, the bankruptcies of our cities, the pollution of our air, earth, and water.

If we are to cope with the problems which face our nation today, we must understand both our history and ourselves. Santayana has told us he who chooses to ignore history is forced to repeat it.

Every generation leaving high school during most of this century has had to face a nation and a world in change and turmoil. Some periods have been more chaotic than others but the American people has responded to the challenges. This is *not* a time to despair. This is a time to explore and to participate in helping to resolve the aftermath of one of the most explosive periods of our nation's history.

Having so recently passed through the Watergate experience, it would be easy to be cynical and disillusioned. But let us not forget the intellectual and spiritual strength of our people. What other country has enjoyed a similar diversity of backgrounds. We are a nation of immigrants—and we are proud of it. Our citizens are the most talented, best trained and educated of any in the world and we are capable of coping with whatever problems beset us, at home and abroad.

We must not forget that our democracy is dependent upon individuals, you and I, committed to its preservation. Was it not two citizens Judge John Sirica and Senator Sam Ervin who, utilizing the governmental structures of checks and balances given us by the Founding Fathers, preserved and protected our democratic system of government? Each of us must actively participate in the political process because what we do *can* make a difference. You are now able to vote at 18. I urge you to do so. Statistics reveal that persons in the 18 to 25 year old category cast the lowest percentage of votes of any age group. In a recent election one additional vote per precinct could have changed the outcome. Each of you should assist in the workings of government by learning about the candidates, working for those you admire, committing yourself to a political party, supporting measures which will benefit the community and exercising your franchise to elect people of intelligence, honesty, and courage.

A special word to the women graduates. I have seen enormous changes just in the past few years in the role of women in politics. No longer are we confined to the drudgery behind the scenes—the sticking and the licking. Now more women are actively involved in the political system, whether it is managing other candidates' elections or running for office themselves. We have seen the election of women to both the state houses and the United States Congress. Even candidates' wives are asked more for their opinions than their recipes.

At this time of your commencement, remember that the genius of America is to be found in our people. Despite our turbulent past, the integrity, character and steadiness of over 200 million Americans, who are determined and dedicated, can build a better America and a better world. I am convinced that at the center of all this is our concerned young people with high ideals who are motivated by a sense of excellence to do better than their predecessors. This is the spirit of youth, the spirit of America.

HUMPHREY BLAMES GAS SHORTAGE FEARS ON INDUSTRY AND ADMINISTRATION TARIFFS

Mr. HUMPHREY. Mr. President, the talk of a possible gasoline shortage this summer is more than talk. Our domestic refineries are systematically reducing production of gasoline despite an abundance of crude oil available for refining. Gasoline production last week fell to 6.4 million barrels per day from 6.55 million barrels both the preceding week and the same week in 1974. Yet crude oil stocks are 283 million barrels, some 8 percent above the June 1974 level of 265 million barrels reported by the Federal Energy Administration.

Further evidence that refineries are artificially creating a gasoline shortage is that they are operating at 83.2 percent capacity this past week, down from 90.3 percent this time last year.

Why are refineries reducing gasoline production in the face of abundant crude oil stocks and 17 percent idle capacity?

To quote William D. Smith from the New York Times, June 16, 1975:

> Oil company executives blame the product allocation system of the Federal Energy Administration for the situation. They contend it makes the incremental production of gasoline—above the amount the refiner needs for himself—more costly than the price it will bring in the market.

That reasoning is scarcely believable in view of the fact that this same allocation system has been in place for almost 2 years—yet, it is only in the past 4 months—since the administration imposed its tariff on crude oil—that gas production has been cut.

The gasoline shortage is the result of the administration's tariff and deliberate action by oil refiners—mostly owned by the large oil companies—designed to drive up gas prices, and profits.

Back in 1974, oil profits and gas prices were held down by two factors: First, Federal Energy Administration—FEA—limitations on profit margins, and second, weak gasoline demand arising from conservation efforts by motorists due to the 70-percent price jump. These factors eliminated any incentive in 1974 for oil companies to restrict production in order to raise prices—and profits.

But that changed when the $1 tariff was imposed by President Ford early in 1975. This tariff created a large amount of socalled bookkeeping "bank costs." For example, the 31 largest refineries experienced a 64-percent jump to $1.64 billion in "banked costs" from December 1974 to April 1975—when the tariff's full impact was felt. These "banked costs" could legally, under FEA regulations, be passed on to motorists through price increases—price increases which would significantly raise oil profits. But the market price for gasoline remained steady—oil companies could not raise prices and profits because motorists' demand for gasoline was still weak.

The solution: reduce the supply of gasoline thereby raising its price.

Now, all industries would like to raise their price to cover rising production costs, in this case the tariffs, but most cannot—competition prevents it. But when an industry is controlled by a handful of giants, they can cut production and raise prices. And that is what almost every refinery started to do in February and March of this year. Because of the tariff, they could legally raise prices and profits, so they decided—all at once and we are to believe, by accident—to cut supply and push that price up. As a result, gasoline reserves fell from over 240 million barrels in late winter to about 200 million barrels now—a 17-percent drop in 4 months.

It looks now like this scheme will work—gasoline prices are starting up and they could rise sharply if spot shortages occur.

How far can gas prices rise as a result of the tariff and oil industry-induced shortages?

The answer rests with the amount of

"banked costs" the FEA will allow oil companies to pass through as higher prices. Data for April, the latest month for which figures are available, reveal that refinery "banked costs" are close to $1.8 billion. Refineries can raise their prices—and profits—by $1.8 billion now under existing FEA regulations, if they can keep supply reduced.

Motorists use about 8 billion gallons of gas each month. If refineries pass all of their "banked costs" through to motorists as higher gas prices in July and August—when gas demand is highest—the average gallon of gas will rise 10.1 cents in price. That can be done legally under existing FEA regulations. And oil companies may not have to worry about having to cut prices after August—if President Ford is successful in achieving a phased de-control of so-called "old" oil when oil price controls expire on August 31.

Specifically, he promised to submit a decontrol plan to Congress over a month ago—and we still have not seen it. First the tariff, then FEA's tax monitoring of gas production by refineries, and now abolition of all oil price controls; the American motorist and consumer could be no worse off if the leaders of OPEC were setting our domestic oil policy.

What can we do?

First, the Congress must continue price controls on old oil for at least another 6 months. Decontrol will raise oil, coal and uncontrolled intrastate gas prices as much as $20 billion immediately—thereby severely disrupting our economic recovery. According to estimates by Chase Econometrics, decontrol could push prices up over 1 percent directly, and perhaps double that when ripple effects are taken into account. This will increase unemployment an additional 200,000 persons and keep over 8.5 million workers on the relief rolls until the summer of 1976 at a minimum.

Second, the President should instruct the Federal Energy Administration to immediately investigate the gasoline shortage and impose fines on refiners who are cutting gasoline production below 1974 levels in order to drive up prices.

Finally, the FEA must revise its gasoline allocation program to insure that independent gas dealers receive their full and traditional amount of gas from refineries. One tragic side effect of the growing gas shortage is that refineries cut off independent dealers by just selling to their own outlets. This can only hurt motorists because these independent dealers being driven out of business are the major force working to keep gas retailing competitive.

THE NEW HAMPSHIRE ELECTION

Mr. McINTYRE. Mr. President, I ask unanimous consent that a column from today's Boston Globe, entitled, "New Hampshire Election—the Real Issue," be printed in the RECORD, so that my colleagues will have an opportunity to read the views of Robert Healy, executive editor of one of our region's leading newspapers.

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

N.H. ELECTION—THE REAL ISSUE
(By Robert Healy)

In the New Hampshire Senate seat contest between John Durkin, the 39-year-old Democrat, and former Republican congressman Louis Wyman, 58, the worry among Senate Democrats is that they will look greedy by grabbing another seat. The Democrats now enjoy a 61-38 voting majority in the Senate.

But that never was the issue. The issue is whether Durkin won the election as the recount showed and then had it stolen from him by a Republican controlled state Ballot Law Commission which overturned the results of the recount.

And more important is whether the voters of New Hampshire are being denied representation in the United States Senate.

What is being overlooked in the Republican cries of "steal" in the Senate is the fact that Durkin was certified as the legal winner of the New Hampshire election. He was certified by Republican Gov. Meldrium Thomson, after a recount which was conducted under the direction of Republican Secretary of State Robert Stark.

The Democrats should be asking why Thomson sent the election certificate (after the recount) back to the executive council to be declared invalid and why it was then turned over to the state Ballot Law Commission where the Republicans have a two to one majority.

It was in the state Ballot Law Commission that Durkin's 10 vote recount victory became a two vote victory for Wyman.

Wyman did win the initial count by 355 votes. But in this kind of close election, recounts are not infrequent. Once they are certified by the officer conducting the recount and by the governor, the winner and loser generally abide by the recount.

Stark, who conducted the recount, is a respected secretary of state.

What is equally significant is that the Republicans would like to have a new election. It is a generally accepted belief that in a special election, a Republican has a better chance of surviving than a Democrat. The Democrat vote tends to come from the working class sections of Manchester and these are not the highest turnout wards in special elections.

It is clear now that Wyman will bring his case to the courts if he is declared a loser by the Senate, which is now in the process of ruling on the disputed ballots.

Durkin wants the Senate to rule on the results of last November's election because he believes the recount process and the certification that followed to be a valid process of his election. He says that the law does not permit a second race and he suggests that Wyman's advocacy of a special election to settle the contest is an admission of defeat in the first. He asks: "Have you ever heard of a politician who won a six year term who wanted a new election?"

The Senate Rules Committee has screened 3500 ballots which both Wyman and Durkin had challenged for one reason or another in the initial New Hampshire counting. These contested ballots were trimmed to 800 protested by both sides.

The Senate Rules Committee could not agree on 27 ballots which the full Senate will be called to rule on. Wyman also has filed eight requests for rulings outside of the 3500 initially disputed ballots.

But the real issue is whether the state Ballot Law Commission overturned a legitimate recount where there was Republican supervision. It appears that the Democrats in the Senate have cold feet in dealing with that problem.

EXCESSIVE GOVERNMENT REGULATIONS STIFLE PRODUCTIVITY

Mr. HARRY F. BYRD, JR. Mr. President, well-intentioned legislation like well-intentioned individuals sometimes can do more damage than good.

Most certainly this applies to excessive Government regulation. The intention, no doubt, is good, namely to help the consumer and "the people."

But too often it has precisely the opposite effect.

Indeed, excessive Government regulations can stifle productivity, increase consumer costs and contribute to inflation.

President Ford, I am pleased to note, is addressing himself to this matter. He asserts that he wants small business relieved from the shackles of Federal red-tape.

I concur in this view.

U.S. News & World Report in its issue of June 30, 1975, brings out important facts in this regard.

I ask unanimous consent that the article from the U.S. News & World Report captioned "The 'Regulators'—They Cost You $130 Billion a Year" be printed in the RECORD.

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

THE "REGULATORS"—THEY COST YOU $130 BILLION A YEAR

A storm of controversy is swirling about federal agencies whose decisions regulate business and industry—and affect what you pay for almost anything. President Ford is only one of many critics demanding changes.

A new campaign—perhaps the biggest yet—is opening against the unchecked and increasingly arbitrary powers that federal regulatory agencies wield over the lives of the American people.

President Ford has called a "regulatory summit" with chairmen of 10 federal agencies to discuss what he describes as "excessive Government regulations that stifle productivity, eliminate competition, increase consumer costs and contribute to inflation."

Says the President: "I want small business released from the shackles of federal red tape. I want to end unnecessary, unfair and unclear regulations—and needless paper work."

Mr. Ford places the annual cost to consumers of unnecessary and wasteful regulatory policies at $2,000 per family. This means the total cost to the public is an estimated 130 billion dollars.

That's shown in a chart on these pages.

On Mr. Ford's agenda: talks with Congressmen on ways to hasten cutbacks on the rising flood of federal regulations. Both houses of Congress are planning "comprehensive studies" of the agencies—their independence or lack of it, performance and impact on the economy.

Behind this rising fever—

Consensus is widening among politicians, businessmen and consumer groups that such agencies—designed to protect the public from marketplace excesses such as monopoly, fraud and inequity—are no longer working effectively in today's society. Many of their rules and restrictions are seen as a drag on an already weakened U.S. economy.

At the same time, paradoxically, concern also is deepening over evidence of too-close ties between some federal regulators and the industries they are supposed to regulate, to the disadvantage of the public interest.

HOW THE "SYSTEM" WORKS

Every day, decisions of the agencies affect 213 million Americans in almost innumerable and often invisible ways.

They influence the quality of television programs and advertising; the cost of airline fares; the cleanliness of air and water; the rates for telephone service and postal deliveries, and the utility charges for heat and light.

Instances of regulators' impact on the economy are plentiful. A few of them:

A General Accounting Office report on effects of environmental and land-use regulations found that more than 6 billion board feet of mature timber in national forests dies every year because federal rules prohibit its harvest.

Mandatory safety standards for power lawn mowers being developed for the Consumer Product Safety Commission could increase the cost of a $100 mower to $186 and might put 25 manufacturers out of business according to a Stanford Research Institute study.

A tire-quality grading system being developed by the National Highway Traffic Safety Administration could cost consumers as much as 150 million dollars a year and yet be too confusing to be of use to tire buyers, according to a report by the Rubber Manufacturers Association.

RANSACKING THE FILES

Equally a worry to many companies is what they see as damage, real or potential, to themselves and their customers through detailed ransacking of their files by bureaucrats.

Three federal regulatory bodies have begun operations to collect internal data on the activities and methods of large businesses—a development that many corporations view with alarm. Such disclosures, they contend, could ultimately damage the public interest and virtually destroy some firms.

The Federal Trade Commission, for example, proposes to collect and reveal publicly "line of business" data on sales, profits and product lines from 345 of the nation's biggest manufacturers. These firms assert the Commission has not right to delve into corporate files, and that the cost of providing such data would average $548,000 per company—a cost that ultimately would be passed on to the consumer.

The Securities and Exchange Commission seeks more disclosure of corporate dealings with the Defense Department, the Central Intelligence Agency and foreign governments. Many firms insist such revelations could damage national security without providing useful information to investors.

The Consumer Product Safety Commission is continuing an effort to force manufacturers of household products—such as paints and solvents—to file their formulas with the Commission, in case their ingredients are someday discovered to be hazardous. Many manufacturers say this would mean giving up valuable trade secrets to competitors.

Too, alleged instances of overregulation and outright abuses by federal agencies are producing a rising chorus of complaints.

In several rural northwestern Oklahoma towns, physicians said their community hospitals are struggling to survive under a "death sentence" imposed by required filing of reports on patients under the federal medicare and medicaid health programs. The doctors maintained that staffs at the small 20 and 30-bed hospitals could not handle the necessary paper work and continue to give adequate medical care.

An Alexandria, Va., trucking contractor who specializes in hauling heavy machinery has tried for three years to obtain a permit to contract with a steel fabricator. His application to enter the market was challenged by six other truckers who already had the authority to operate over substantially the same routes. Federal regulators upheld the existing carriers, thus keeping a bona fide competitor out of the marketplace.

WHO ARE THE REGULATORS?

These and other criticisms are directed at a relative handful of appointed men and women who serve as regulatory commissioners in the huge national and State bureaucracies. Scores of U.S. agencies exercise regulatory powers, but only a few are truly "independent," with only minor restraints on their legislative, judicial and administrative authority.

Others operate within Cabinet-level departments: for example, the Food and Drug Administration in the Department of Health, Education and Welfare; the Occupational Safety and Health Administration in the Labor Department, and two safety-regulation bodies in the Department of Transportation.

But much of the current criticism involves the "big six" regulatory bodies created in the last 88 years.

The first such agency to be authorized, in 1887, was the Interstate Commerce Commission (ICC).

The Federal Power Commission (FPC) was formed in 1930.

The Federal Communications Commission (FCC) and the Securities and Exchange Commission (SEC) sprang to life in 1934.

The Federal Maritime Commission (FMC) was born in 1936.

The Civil Aeronautics Board (CAB) was the last of the six, in 1938.

These six agencies alone have direct control over some 120 billion dollars a year in commerce.

Today, regulatory agencies continue to increase in numbers—and power.

In 1970, Congress created the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA). The Consumer Product Safety Commission (CPSC) was created in 1972.

Already in 1975, two new regulatory agencies have begun operations—the Federal Elections Commission and the Commodity Futures Trading Commission—and Congress is in the process of creating the controversial Agency for Consumer Advocacy.

This growth in federal regulatory functions is spurred by Congress and by expressions of concern about the power of "big business"—particularly its role in continuing inflation, unemployment, and the energy crisis. Also feeding concern is the spreading mood of consumer protest.

A nationwide public survey commissioned by the Commerce Department and the Advertising Council recently showed that 56 per cent of Americans want even more Government regulation and only 35 percent want less.

WHAT BOTHERS THE CRITICS

Thomas E. Kauper, Assistant Attorney General for antitrust matters, says however, that many agencies serve as economic "gatekeepers" for the industries they regulate—determining which firms enter a field, the products or services they offer and the rates they charge.

Members of the Chamber of Commerce of the U.S., polled at a recent national conference, overwhelmingly favored abolishing or diminishing the power of major regulatory agencies, particularly the ICC and the CAB.

Carl H. Madden, the Chamber's chief economist, observes: "Given the danger to the future growth of the country with continued economic regulation, the weight of the public interest is overwhelming on the side of deregulation."

Consumer and public-interest groups have long espoused deregulation of railroads, truck lines and airlines. Consumer-advocate Ralph Nader observes:

"Our unguided regulatory system undermines competition and entrenches monopoly at the public's expense."

Says Mr. Kauper: "Regulatory reform has received considerable broad-based support in concept, but once particular oxen begin to be gored, those who support general concepts may find it difficult to support detailed change."

President Ford pinpoints another difficulty: "Nothing resists change more stubbornly than a comfortably entrenched bureaucracy, intent on self-preservation."

GOVERNMENT-RUN CARTELS

What is becoming clear is that federal regulations increasingly are creating higher prices for consumers by rewarding inefficiency and discouraging innovation.

Critics charge that many regulated industries, in effect, belong to elaborate cartels administered by Government agencies. These agencies may approve mergers and acquisitions, set rates and fees, grant market areas, approve transportation routes and license new operators.

Others point to regulatory actions they contend will protect the financial health of the industries being regulated more than public or customer interests. An example:

Along the main cross-country interstate routes between Cleveland, Ohio, and Jacksonville, Fla., trucks roll along with trailers empty—even though shippers at both ends of the line would eagerly give them cargo.

The truckers, are permitted to haul freight one way only, and must make the 1,000-mile return trip empty. Why?

It is because of regulations set years ago by the Interstate Commerce Commission—though the American Trucking Association with a staff of 240 to watch over industry interests at its Washington headquarters, argues that empty trucks on the highway are caused by "freight imbalances" along certain routes and by specialized vehicles, such as auto carriers, which can haul only certain kinds of loads.

Another example: A small airline operating only in Texas flies passengers between Dallas and Houston for as little as $15 per trip. An interstate airline, which operates under Civil Aeronautics Board regulations, charges $31 for the same trip. A similar disparity exists in California on flights between San Francisco and Los Angeles. In both cases, the State-regulated airlines turn comfortable profits while charging lower fares. This is described as "cream skimming" by their big competitors whose higher fares make up for less-profitable routes in their federally protected interstate schedules.

Commissions also are accused of becoming immersed in minutiae that prevent them from tackling big issues with speed and wisdom. For instance—

In April, the ICC labored over an application from the Yellowstone Molasses Service for permission to haul molasses from North Dakota to neighboring States. The commissioners also approved the rate for transporting molasses.

Earlier, the Federal Trade Commission had met "to reconsider the limitations set by Rule 19 (H) 2 under the Fur Products Labeling Act for iron and copper found in dressed ranch-mink skins.

Federal regulators also set forth Navel-Orange Regulation 311, which prescribed how many oranges may be shipped from certain counties in California and Arizona during a specific one-week period.

Early in May, the ICC took three pages of fine print to itemize the specific highway routes that a small moving company in Grandview, Mo., must use to haul household goods across the country. Even if the firm wanted to take a short cut, it was prohibited from doing so by the ICC.

And an Oregon company that operates three small TV stations reported that its FCC

license-renewal application weighed 45 pounds—a relatively small paper-work burden considering the 5,146 different types of Government forms approved for public use, a figure that excludes all tax and banking forms.

AGENCIES STAY IN BACKGROUND

How did the U.S. end up in this regulatory swamp?

In his book "The Regulators," Louis M. Kohlmeier, Jr., explains it as a peculiarly American answer to Marxist formulas for managing the marketplace—leave production almost entirely in private hands but regulate commerce and industries most vital to the public interest.

Increasingly, in recent years, these regulatory commissions—whose members are appointed by the President—have functioned as anonymous and almost unchallenged forces in the Government and the economy.

Congress rarely has exercised any oversight of regulatory activities. As a result, say critics, the agencies have become even further removed from political pressures and more closely aligned with the industries they regulate.

Day-to-day actions of such agencies tend to be extremely complex, arcane and dull. In the past, the press has considered the "regulatory beat" one of the least glamorous in Washington and, until recently, devoted little more than cursory coverage to agency decisions. Public familiarity and scrutiny of the agencies has been kept at a minimum.

Yet almost from the beginning, thoughtful persons have expressed fears about the system—primarily the concern that Americans would look exclusively to Government to alleviate all problems.

Almost as important, in the eyes of many, is what U.S. Appeals Court Judge J. Skelly Wright, in a 1970 case involving the CAB, called "the recurring question which has plagued public regulation of industry: whether the regulatory agency is unduly oriented toward the interests of the industry it is designed to regulate, rather than the public interest it is designed to protect." Echoing that concern, former Deputy Assistant Attorney General Donald I. Baker declares: "The process of enforced intimacy between an agency and the industry it regulates tends to give the agency a sense of responsibility for the welfare of that industry, regardless of whether the statutes require it."

ROLE OF THE LOBBYISTS

This "enforced intimacy" produces what one former FCC commissioner calls a "subgovernment of lobbyists, powerful lawyers, special-interest groups and corporations involved in a cozy relationship with the bureaucrats and agency officials that are supposed to be doing the job of regulating."

Scores of corporations retain Washington counsel to look after their interests, and more than a hundred trade associations have relocated in the nation's capital in recent years.

Mark Green, author of a new book, "The Other Government: The Unseen Power of Washington Lawyers," says:

"Washington is filled with lawyers who are making a great living prolonging things at regulatory agencies. They can outlast anybody. Some decisions have been dragged out longer than 10 years."

Mr. Green also notes that a number of Washington lawyers began as staff members of regulatory agencies, learned the ropes, then left to "work the other side of the street" representing clients before the regulatory agency.

At high level, commissioners cross over, too.

In 1970, James Needham resigned as Chairman of the Securities and Exchange Commission to take his present position as president of the New York Stock Exchange.

James Quello, a former broadcasting executive in Detroit, took an appointment to the Federal Communications Commission in 1974.

Peter B. Hutt, who represented several food corporations for a major Washington law firm, became in 1971 chief counsel of the Food and Drug Administration.

Last year, a GAO study noted that 3 out of 5 commissioners on the Federal Power Commission had past associations of varying closeness with the oil and gas indutry.

Are such close association between regulators and regulated necessarily bad? Keith I. Clearwaters, a former Deputy Assistant Attorney General now in private practice, believes firmer measures are needed to avoid the appearance of conflicts of interest. His view:

"You can't stop people from going through the revolving door from industry to Government agency and back again. After all, the pool of expertise in such areas as transportation and petroleum is very small. But certainly Congress should examine appointees to regulatory agencies very closely, and strong codes of ethics should be enforced so that a person can't work on certain issues at a Government agency and then go out . . . and advocate the other side of the case."

Frank W. Lloyd, head of the Citizens Communication Center, a public-interest law firm that works on media issues before the FCC, notes salary is involved. He says: "When a person gains experience in fields like securities or communications at a federal agency, he becomes quite valuable to private industry, and a corporation will pay dearly for his services—far above Government salary levels. The pattern is to get a few years of solid background in Government policy, and then be lured away by tempting offers."

WHY BUSINESSMEN WORRY

While concern grows over this "cozy familiarity" between regulators and regulated, much of the recent impetus to alter federal regulatory policies flows out of fears of business interests themselves that Government is beginning to interfere too much in their affairs.

William S. Mitchell, president of Safeway Stores, Inc., the nation's largest food chain, articulated that concern when he called for an end to "the morass of ever-increasing Government meddling and muddling."

Speaking of the retail-food industry particularly, Mr. Mitchell charged recently that "some publicity-seeking politicians and Government agencies seem to be trying to turn our customers against us."

The food-chain president added:

"They seem to want us to end up as either a highly regulated industry or be broken up or both."

President John G. Kemeny of Dartmouth College, citing burdensome and often conflicting federal regulations governing admission, scholarship and hiring policies, believes federal power may be the most significant threat to higher education in the U.S.

"Federal agencies seem to be competing with each other in an effort to enforce a wide variety of regulations, and universities just cannot keep up with them. This red tape makes the administration of educational institutions vastly more complicated.

"The time may come when an institution will have to place itself deliberately in violation of some of these regulations in order to force a test case in the courts."

Many regulations to which business interests object govern social concerns—equality in hiring, occupational safety, consumer welfare and environmental quality.

Ray Burch, senior vice president and marketing director of Schwinn Bicycle Company, asserts that federal and State regulatory bodies increasingly are intervening in companies' internal operations. He adds:

"Government inspectors with little business expertise are permitted to walk into any company unannounced and dictate work rules. It's a wonder any product can leave the assembly line at a decent price."

Murray L. Weidenbaum, director of the Center for the Study of American Business at Washington University in St. Louis, and a former Assistant Secretary of the Treasury for economic policy, calls these social issues "the new wave of Federal Government regulation of business." He explained:

"No one can quarrel with the motives of bureaucrats in trying to improve working conditions, promote better products, eliminate job discrimination and reduce pollution. All too often, however, regulators simply ignore the costs of such advances—costs that frequently outweight the benefits."

The price of a U.S. auto, he points out, has increased an average of $320 per car because of federal safety and pollution standards. Another study found that federal drug standards caused delays in bringing effective drugs to the market and resulted in extra costs to consumers of between 200 and 300 million dollars a year.

Much of the theme of President Ford's campaign to reform federal regulatory agencies will rest on showing how such agencies worsen inflation through their policies. Says George Eads, assistant director of the Council on Wage and Price Stability:

"All we are asking is for the regulators to consider their actions in the spirit of value received for money spent. Since consumers end up paying the additional price brought on by regulatory actions, we want federal agencies to be sure the benefits equal the costs to society."

THE PROLIFERATION OF EXPENSIVE MEDICAL TECHNOLOGY

Mr. KENNEDY. Mr. President, increasing concern has been expressed recently concerning the rapid proliferation of high cost, high potency medical techniques, and the implications of continued proliferation of that technology for the rapidly rising costs of medical care. Questions have been raised in the recent past about the effectiveness of costly and complex technology in improving the health of the American people. The Board of the Office of Technology Assessment has recently authorized the creation of a panel to study the implications of high cost technology for medical care in the United States.

Dr. Lewis Thomas, president of the Sloane Kettering Cancer Research Institute in New York, delivered an address before the Institute of Medicine of the National Academy of Sciences in November 1972. In it, he outlines his concerns about the continued proliferation of expensive medical technology at the expense of basic biomedical research and simple preventive measures, which may, in the end, have a much greater impact.

I ask unanimous consent that his remarks be printed in the RECORD.

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

ASPECTS OF BIOMEDICAL SCIENCE POLICY

(By Lewis Thomas, M.D., Dean Yale University School of Medicine)

I

I should like to present two different points of view about policy for biomedical science. Although the two viewpoints will seem not only different but even in conflict, they are both my own. Personally, I do not

believe them to be in conflict, although, since they concern quite different aspects of today's health care problem, they are, in fact, quite different.

The first view concerns the health of the people and the problems associated with medicine's role in its maintenance. The second concerns the problem of disease.

We spend $70 billion a year on health, as we keep reminding ourselves, or is it 80? Whichever, it is a socking sum, and just to mention it is to suggest the presence of a vast, powerful enterprise, intricately organized and coordinated. It is, however, a bewildering, essentially scatterbrained kind of business, expanding steadily without being planned or run by anyone in particular. Whatever sum we spent last year was only discovered after we'd spent it, and nobody can be sure what next year's bill will be. The social scientists, attracted by problems of this magnitude, are beginning to swarm in from all quarters to take a closer look. There doesn't seem to be any doubt about the amount of money being spent, but it is less certain where it goes and for what.

It has become something of a convenience to refer to the whole endeavor as the Health Industry. This provides the illusion that it is in a general way all one thing, and that it turns out, on demand, a single, unambiguous product, which is Health. Thus, Health Care has become the new name for medicine. Health Care Delivery is what doctors now do, along with hospitals and the other professionals who work with doctors, now known collectively as the Health Providers. The patients have become Health Consumers. Once you start on this line, there's no stopping. Just recently, in order to correct some of the various flaws, inequities, logistic defects, and near-bankruptcies in today's Health Care Delivery System, the government has officially invented new institutions called Health Maintenance Organizations, already known familiarly as HMO's, spreading out across the country like post offices, ready to distribute in neat packages, as though from a huge, newly stocked inventory, Health.

Sooner or later, we are bound to get into trouble with this word Health. It is too solid and unequivocal a term to be used as a euphemism, and this seems to be what we are attempting. I am worried that we may be overdoing it, taxing its meaning, in order to conceal an unmentionable reality that we've somehow agreed not to talk about in public. It won't work. Illness and death still exist and cannot be hidden. We are still beset by plain diseases, and we do not control them; they are loose on their own, afflicting us unpredictably and haphazardly. We are only able to deal with most of them when they have made their appearance, and we must use the methods of medical care for this, as best we can, for better or worse.

It would be a better world if this were not true, but the fact is that we do not develop diseases just because of being careless about the preservation of Health. We do not become sick only because of a failure of vigilance. Most illnesses, especially the major ones, are blind accidents that we have no idea how to prevent. We have considerably more rhetoric about disease prevention than can be justified by scientific proof today, and we are at risk in overstating the facts. To be sure, there are a few important diseases, such as glaucoma and cervical cancer, which can be more effectively treated if detected early; we might prevent lung cancer if we could only learn to prevent cigarette smoking, and we have some excellent techniques for immunization. But we really cannot extrapolate a very great distance from these achievements. The great majority of chronic disease, including heart disease, cancer, and stroke, remain largely beyond our control. We are really not all that good at preventing disease or preserving health, not yet anyway, and we are not likely to be until we have learned a great deal more about disease mechanisms.

There is disagreement on this point, of course. Some of the believers among us are convinced that once we get a Health Care Delivery System that really works, the country might become a sort of gigantic spa, offering, like the labels on European mineral water bottles, preventives for everything from weak kidneys to moroseness.

It is a surprise that we haven't already learned that the word is a fallible incantation. Several decades of Mental Health have not made schizophrenia go away, nor has it been established that a Community Mental Health Center can yet maintain the mental health of a community. These admirable institutions are demonstrably useful for the management of certain forms of mental disease, but that is another matter.

My complaint about the terms is that they sound too much like firm promises. A Health Maintenance Organization, if well organized and financed, will have the best features of a clinic and hospital and should be of value to any community, but the people will expect it to live up to its new name. It will become, with the sign over its door, an official institution for the distribution of Health, and if anyone thereafter develops, as they surely will, intractable heart disease, or multiple sclerosis, or rheumatoid arthritis, or that majority of cancers that can neither be prevented nor cured, or chronic nephritis, or stroke, or moroseness, the people will begin looking sidelong and asking questions in a low voice.

Meanwhile, we are paying too little attention, and respect, to the built-in durability and sheer power of the human organism. Its surest tendency is toward stability and balance. It is a distortion, with something profoundly disloyal about it, to picture the human being as a teetering, fallible contraption, always needing watching and patching, always on the verge of flapping to pieces; this is the doctrine that people hear most often, and most eloquently, on all our information media. We ought to be developing a much better system for general education about human health, with more curricular time for acknowledgment, and even some celebration, of the absolute marvel of good health that is the real lot of most of us, most of the time.

The familiar questions about the needs of the future in medicine are still before us. What items should be available, optimally, in an ideal Health Care Delivery System? How do you estimate the total need, per patient per year, for doctors, nurses, drugs, laboratory tests, hospital beds, X-rays, and so forth, in the best of rational worlds? My not entirely frivolous suggestion for a new way to develop answers is to examine, in detail, the ways in which the various parts of today's medical care technology are used, from one day to the next, by the most sophisticated, knowledgeable, and presumably satisfied Consumers who now have full access to the system—namely, the well-trained, experienced, middle-aged, married-with-family internists.

I could design the questionnaire myself, I think. How many times in the last 5 years have the members of your family, including yourself, had any kind of laboratory test? How many complete physical examinations? X-ray? EKG's? How often, in a year's turning, have you prescribed antibiotics of any kind for yourself or your family? How many hospitalizations? How much surgery? How many consultations with a psychiatrist? How many formal visits to a doctor, any doctor, including yourself?

I will bet that if you got this kind of information and added everything up, you would find a quite different set of figures from the ones now being projected in official circles or the population at large. I have tried it already, in an unscientific way, by asking around among my friends. My data, still soft but fairly consistent, reveals that none of my internist friends have had a routine physical examination since military service; very few have ever been X-rayed except by dentists; almost all have resisted surgery; laboratory tests for anyone in the family are extremely rare. They use a lot of aspirin, but they seem to write very few prescriptions and almost never treat family fever with antibiotics. This is not to say that they do not become ill; these families have the same incidence of chiefly respiratory and gastrointestinal illness as everyone else, the same number of anxieties and bizarre notions, and the same number—on balance, a small number—of frightening or devastating diseases.

It will be protested that internists and their households are really full-time captive patients and cannot fairly be compared to the rest of the population. As each member of the family appears at the breakfast table, the encounter is, in effect, a house call. The father is, in the liveliest sense, a family doctor. This is true, but all the more reason for expecting optimal use to be made of the full range of medicine's technology. There is no problem of access, the entire Health Care Delivery System is immediately at hand, and the cost of all items is surely less than for nonmedical families. All of the usual constraints that limit the use of medical care by the general population are absent.

If my hunch, based on the small sample of professional friends, is correct, it would appear that these people use modern medicine quite differently from the ways in which we have systematically been educating the public over the last few decades. It cannot be explained away as an instance of shoemakers' children going without shoes. Doctors' families do tend to complain that they receive less medical attention than their friends and neighbors, but they seem a normal, healthy lot, with a remarkably low incidence of iatrongenic illness.

The great secret, known to internists and learned early in marriage by internists' wives, but still hidden from the general public, is that most things get better by themselves. Most things, in fact, are better by morning. Obviously, it is a great time-saver and money-saver for the physician's family that anxiety about disease is not handled as though it were disease itself; there is perhaps a greater willingness to accept anxiety as a natural, often transient, phenonemon. And certainly there is much less ambition to deploy the full technology of medicine as a corrective for the human condition.

It is conceivable that we might be able to provide good medical care for everyone needing it, in a new system designed to assure equity, provided we can restrain ourselves, or our computers, from designing a system in which all 200 million of us are assumed to be in constant peril of failed health every day of our lives. In the same sense that our judicial system presumes us to be innocent until proven guilty, a medical care system may work best if it starts with the presumption that most people are healthy. Left to themselves, computers may try to do it in the opposite way, taking it as given that some sort of direct, continual, professional intervention is required all the time, in order to maintain the health of each citizen, and we will end up spending all our money on nothing but this. Meanwhile, there is a long list of other things to do if we are to change the way we live together, especially in our cities, in time. Social health is another kind of problem, more complex and urgent, and there will be other bills to pay.

II

If taken out of context, my remarks to this point might be interpreted as an argument

against intervention—conceivably, as a case against expanding our efforts in medical care. This is not my intention. On the contrary, I believe that we are under obligation to do a great deal more than we are doing today, in both the prevention and treatment of disease. But before we can do the genuinely effective, decisive things that need doing, we are totally dependent on a kind of information about disease that does not yet exist. To explore this dilemma, I should like now to consider certain problems relating to the available technologies of medicine.

The technology of medicine has certain peculiar features that differentiate this field from all the rest. One difference has to do with the economics that seem to govern all other technological advances but have no discernible influence on the kinds of things we do, or *think* we do, in medicine. For example, we do not build new bridges at great cost without knowing in advance, quite precisely, what the transport requirements will be in the future and having some kind of assurance that the bridges will bear the traffic, meet all foreseeable demands, and stand up to all foreseeable stresses. But we will undertake the development of an artificial heart, at the cost of many bridges, without going through any sort of cost-benefit, logistic, or even moral analysis of what it is that we are making. Indeed, in medicine, it is characteristic of our technology that we do not count the cost, ever, even when the bills begin coming in. I should like to come back to the artificial heart business a bit later on.

This is, plainly, a defect in our system, if we can be said to have a system. It is, in part, explainable by our history, by the brand newness of any kind of technology at all in this field, and our consequent unfamiliarity with any methods, or indeed, any incentive in the first place, for technology assessment in medicine. We have had almost no genuine science to tap into for our technology until just the past three decades. As a profession, we go back a very much longer stretch of time, probably thousands of years. During most of our history, therefore, we have become accustomed to no technology at all, or to pseudotechnologies without science. We acquired the habit, long since, of improvising, of trying whatever came to hand, and in this way, we have gone through our cyclical fads and fashions, generation after generation, ranging from bleeding, cupping, and purging, through incantations and the reading of omens, to prefrontal lobotomy and metrazol convulsions, and we have all gotten quite used to this kind of thing, whether we will admit it or not. Early on, we became accustomed to the demand that a doctor must *do* something; doctors who didn't *do* something, no matter what, were not real doctors, any more than shamans were real shamans until they turned on the good spirits and turned off the bad ones.

During the long period when we knew of nothing to do about typhoid fever except to stand by and wait for the patient to struggle through, keeping an eye out for the hemorrhages and perforations that might kill him at any time, the highest level of technology was the turpentine stupe, an elaborate kind of fomentation applied to the belly, very difficult to make without ending up with a messy shambles, and capable, I believe, of doing absolutely no good whatever beyond making everyone feel that the doctor was *doing* something. This, by the way, is not a baroque item of our distant history. I learned to make a turpentine stupe at the Peter Bent Brigham Hospital in 1937; it is, therefore, in my view, a relatively recent, almost modern, example of the way we develop technology, and it is not yet all behind us, as we shall see. We still have our equivalents of bleeding and cupping and turpentine stupes, and they are all around us.

The trouble with this kind of pseudotechnology or magical technology, is that it has become unbelievably expensive in its more modern forms, and, at times, it is dangerous. It is particularly dangerous and expensive when it takes the form of strong drugs, or bizarre diets, or surgery, which it sometimes does.

We may be in danger of forgetting the real reason why we have always done such things in the first place. Why, when we do not understand, even faintly, the underlying nature of a fatal disease and can do nothing about it to change its course, do we feel an obligation to *do* something—and why does society expect us to try? The answer, of course, is that we must; it is in our nature to try; the very best definition of a physician's occupation ever given is the old one: "to cure sometimes, to relieve often, to comfort *always*." It is that word "always" that is operative. And one of the best ways to comfort is to keep trying, no matter what.

But now that science has entered medicine in full force, we must begin to sort out our affairs. From now on, we will need, as never before, to keep these central enterprises—"to cure, to relieve, to comfort"—clearly separated from each other in our minds. They do not really overlap, but we tend to view them, and the public takes, of course, the same view, as though they were all of a piece, all the same body of technology, all derived from science, all modern. I think perhaps one reason we do this is because of an unconscious conviction that dollar values must be placed on all human enterprises, and we do not like to confess to ourselves that so many of the things that we do are simply provided for comfort and reassurance. Somehow, this has come to seem a less significant product than a cure; so we try, consciously or unconsciously, to pretend that there is more continuity than is really there, that everything we do is directed toward the same end.

In fact, in real life, we are engaged in three, maybe four, entirely different kinds of technology in medicine. I have an idea that if we could conduct a sort of technology assessment on ourselves and come to some sort of general agreement about which technology belongs in which category, we might be in a better position to make intelligent plans and forecasts for the future, and we would almost surely be clearer in our minds about how to set priorities for the investment of scientific resources for the future.

Before beginning on my own version of a classification, I would like to make a general declaration of faith and a general confession of optimism. My dogmas are as follows: I do not believe, first of all, in the inevitability of disease; I concede the inevitability of the *risk* of disease, but I cannot imagine any category of human disease that we are precluded, by nature, from thinking our way around. Moreover, I do not believe that when we succeed in controlling or curing one kind of disease we will necessarily, automatically, find that it has been replaced by another.

Even if I am wrong about this, and it should turn out that there is some law of nature that mandates the doling out of new diseases up to some optimal number whenever old ones disappear (which strikes me as a piece of illogic as well as high improbability), I still cannot imagine remaining helpless before all the new ones. Nature is inventive, I grant, but not as inventive as to continue elaborating endless successions of brand new, impenetrable disease mechanisms. After we have learned enough to be able to penetrate and control the mechanisms of today's disease, I believe we will automatically be well equipped to deal with whatever new ones turn up. I do not say this in any arrogance, it just seems to me reasonable.

I have no more difficulty in imagining a disease-free human society, or at least a society in which major diseases are held under control, than I do with the idea that valuable stocks of animals, or varieties of plants, can be maintained *relatively* free of disease.

I believe that disease is, fundamentally, unnatural. It is not, in my view, a normal or natural part of the human condition for aging human beings to become paralzed and idiotic for long years before they finally die, any more than it is for young people to develop acute leukemia. I believe that disease results, generally, as the result of biological mistakes: misinterpretations, on the part of cells and tissues, of signals; misuse of information. I believe that there is a general tendency, amounting to a kind of universal natural force, for living things to attempt to join together, to pool resources, to establish symbiotic relationships. Parasitism is what happens when this fundamental drive forces partnerships upon inappropriate, wildly asymmetric partners. To protect against such collisions, we are all provided with chemical signals of identity, by which the life of the earth is regulated and kept balanced. Certain major varieties of disease are due to the panic produced by such signals; for example, most mammals, and even certain invertebrates like *Limulus*, read the signal of the lipopolysaccharide endotoxin extracted from Gram negative bacteria as the news of absolute doom, and so violent an inflammatory reaction is set up inside the whole vascular compartment that the circulation of the blood is brought to a standstill. This happens not because of any intrinsic poisonous properties of endotoxin, but because of the way the information contained in its molecule happens to be read by an animal host. In my view, much of human disease works in this way, and the mechanisms involved are, I believe, quite open to intelligent intervention and reversal whenever we learn more about how they operate.

To say it another way, I do not consider that the ambition to control or eliminate disease, which is an ambition shared by everyone in biomedical science, is their unthinkable or any distance beyond imagining. What makes it seem to many people like an outlandish, even outrageous, way to be talking is that it becomes assumed that we are talking about human happiness, which is really quite another matter, or about human mortality, which is also quite another matter. As to the first, it is, of course, true that disease has long been a major cause of human despair and wretchedness, but this is no reason to believe that we will all become happy, well-adjusted people by being rid of it.

We will still be left with an abundance of worrisome problems, and we will still have more than our share of ample reasons for despair, and no medical science—not even psychiatry—has any foreseeable contribution to make to these matters. War and bombs, failure and anomie, clouding of the sun by particles of our own waste, the shutting off of oxygen, the loss of room to move around—these are problems still to be with us, for some time to come, healthy or ailing, and I hope that no one will suggest that these are in any sense problems for medicine—or we will never get any of them solved. But perhaps human society will be better equipped to think its way through these imponderables if, at least, we no longer have today's roster of diseases to worry us at the same time.

As to mortality, I have a hunch that we will discover, someday, that disease and death are not as inextricably interrelated as we tend to view them today. All the rest of nature undergoes, in its variable cycles, the physiological process of death by the clock; all creatures, all plants, age finally, and, at the end, they all die. Diploid cells in tissue culture have finite life-span, which are different for different lines of cells and characteristic of particular cell stocks. Some live for 40 generations and then die, others for 70. They do not develop fatal diseases; it is not a catastrophe, they simply reach the end of a life-span programmed for them in their own genomes, and, at the end of that span, they die.

I believe that we are also like this. If we are not struck down prematurely by one or another of today's diseases, we live a certain length of time and then we die, and I doubt that medicine will ever gain a capacity to do anything much to modify this. I can see no reason for trying and no hope of success anyway. At a certain age, it is in our nature to wear out, to come unhinged and to die, and that is that. My point here is that I very much doubt that the age at which this happens will be very drastically changed, for most of us, when we have learned more about how to control disease. The main difference will be that many of us will die in relatively good health, in a manner of speaking, rather after the fashion of Bertrand Russell. Or we may simply dry up and blow away.

And even if our technology were to become so dazzlingly effective as to rid us of all the major diseases that now kill many of us off before our time of wearing out, I doubt that the increase in population caused by this would make more than a marginal difference to the general problem of world over-population. Indeed, it might help some, since there would be smaller numbers of us in hospitals or living out our lives in various degrees of incapacitation and suffering. Being over-populated is bad enough as social problems go, but to be over-populated with so many of us disabled by disease, especially by the chronic diseases of the elderly, let alone schizophrenia, presents an unthinkable prospect for the approaching century.

In any case, we do not really owe much of today's population problem to the technology of medicine. Over-population has been coming on for several centuries, and the alarming upward slope began long before we had developed a genuine capacity to change the outcome of disease. Modern medical science is a recent arrival, and the world population had already been set on what seems to be its irreversible course by the civilizing technologies of agriculture, engineering, and sanitation—most especially the latter. From here on, the potential benefits of medicine greatly outweigh any conceivable hazard; we will perhaps change slightly the numbers of us living at any moment in time, but it lies within our capacity to change very greatly the quality of life.

Well, where do we stand today as a science? This is not the same question, of course, as the one concerning the state of our technology. Our science is the science of the biological revolution, and we have scarcely begun to apply any of it. We do not, in fact, yet know where to begin. In contrast with today's genuinely high technologies of molecular biology, or neuprobiology, or cellular biology, with the immense power of their instruments for exploring the most fundamental questions about the processes of life, the condition of our knowledge of disease mechanisms has a primitive, 19th-century look, and our capacity to intervene in disease is not much better. This is the general shape of things today, but tomorrow will be very different indeed. I simply cannot imagine any long persistence of our ignorance about disease mechanisms, in the face of all that is being learned about normal cells and tissues. Our time for the application of science, on a major scale, is approaching rapidly, and medicine will be totally transformed when it happens. The hard problem just ahead will be for us to set priorities and make choices between options. We will be obliged, as never before in our history, to select between alternative possibilities in technology; we will be compelled to make long-range predictions as to the outcome of this course or that; in short, we will be thrust into the business of technology assessment, just like all the other great national enterprises.

It is a curious position that we are in today, poised as we are between the old world of trial-and-error empiricism, superstition, hunch, and resignation to defeat, and the new world, just ahead, of hard information and applied science. We seem to work, as of now, with three different levels of technology.

1. First, and necessarily foremost, is what might be termed the *high technology* of medicine, equivalent, in its sophistication and effectiveness, to the high technologies of the physical sciences. It is a curious fact that although the accomplishments here represent the major triumphs of medicine to date, most of us tend to take them for granted, and we often forget what they mean for the quality of life in modern society. This is the genuinely decisive technology of modern medicine, exemplified best by methods for immunization against diphtheria, pertussis, and various virus diseases and the contemporary use of antibiotics and chemotherapy for bacterial infections. The capacity to deal effectively with syphillis and tuberculosis represents a milestone in human endeavor, even though full use of this potential has not yet been made. And there are, of course, other examples: the treatment of endocrinologic disorders with appropriate hormones, the prevention of hemolytic disease of the newborn, the treatment and prevention of various nutritional disorders, and, perhaps just around the corner, the management of Parkinsonism and sickle-cell anemia. There are other examples, and everyone will have his favorite candidates for the list, but the truth is that there are not as many as the public has been led to believe.

The point to be made about this kind of technology—the real high technology of medicine—is that it comes as the result of a genuine understanding of disease mechanisms, and when it becomes available, it is relatively inexpensive, relatively simple, and relatively easy to deliver.

Offhand, I cannot think of any important human disease for which medicine possesses the capacity to prevent or cure outright where the cost of technology is itself a major problem. The price is never as high as the cost of managing the same diseases during the earlier stages of ineffective technology. If a case of typhoid fever had to be managed today by the best methods of 1935, it would run to a staggering expense. At, say, around 50 days of hospitalization, requiring the most demanding kind of nursing care, with the obsessive concern for details of diet that characterized the therapy of the time, with daily laboratory monitoring, and, on occasion, surgical intervention for abdominal catastrophe, I should think $10,000 would be a conservative estimate for the illness, as contrasted with today's cost of a bottle of chloramphenicol and a day or two of fever. The kind of technology that was evolving for poliomyelitis in the early 1950's, just before the emergence of the basic research that made the vaccine possible, provides another illustration of the point. It is the cost of those kinds of technology, and their relative effectiveness, that must be compared with the cost and effectiveness of the vaccine.

Pulmonary tuberculosis had similar episodes in its history. There was a sudden enthusiasm for the surgical removal of infected lung tissue in the early 1950's, and elaborate plans were being made for new and expensive installations for major pulmonary surgery in tuberculosis hospitals, and then the drug isoniazid and the antibiotic streptomycin came along, and the hospitals themselves were closed up.

It is when physicians are bogged down by their incomplete technologies, by the innumerable things they are obliged to do in medicine when they lack a clear understanding of disease mechanisms, that the deficiencies of the health care system are most conspicuous.

2. This brings me to the second level of technology in this classification, which I have termed the "halfway technology" of medicine. This represents the kinds of things that must be done after the fact, in efforts to compensate for the incapacitating effects of certain diseases whose course we are unable to do very much about. It is a technology designed to make up for disease, or to postpone death.

The outstanding examples in recent years are the transplantations of hearts, kidneys livers, and other organs and the equally spectacular inventions of artificial organs. In the public mind, this kind of technology has come to seem like the equivalent of the high technologies of the physical sciences. The media tend to present each new procedure as though it represented a breakthrough and therapeutic triumph, instead of the makeshift that it really is.

In fact, this level of technology is, by its nature, at the same time highly sophisticated and profoundly primitive. It is the kind of thing that we must continue to do until there is a genuine understanding of the mechanisms involved in disease. In chronic glomerulonephritis, for example, a much clearer insight will be needed into the events leading to the destruction of capillaries in the kidney. There is solid evidence that abnormal immunologic reactions are the basis for this destruction. If more information can be obtained, it should become possible to intervene intelligently, to prevent the process, or turn it around. When this level of understanding has been reached, the technology of kidney replacement will not be much needed and should no longer pose the huge problems of logistics, cost, and ethics that it poses today.

An extremely complex and costly technology for the management of coronary heart disease has evolved, involving specialized ambulances and hospital units, all kinds of electronic gadgetry, and whole platoons of new professional personnel to deal with the end results of coronary thrombosis. Almost everything offered today for the treatment of heart disease is at this level of technology, with the transplanted and artificial hearts as ultimate examples. When enough has been learned to know what really goes wrong in heart disease, we ought to be in a position to figure out ways to prevent or reverse the process, and when this happens the current elaborate technology will be set to one side.

The impending development of an artificial heart illustrates the kind of dilemma we are placed in by today's emphasis on halfway technology. Let us assume that heart disease, for all its manifold origins and its complexity, does represent an approachable scientific problem—that if we study the matter with sufficient imagination and energy, making use of all the new information about muscle structure and function and blood coagulation and lipid metabolism, and making capital use of new information along other lines as yet unguessed at by any of us, we will eventually solve this problem, and we will then learn how to intervene before the onset of irreversible muscle or valve disease, to prevent the process or to turn it around. As a non-cardiologist, an outsider, I have total confidence that this can be done, that sooner or later it will be done, and my colleagues who know a lot about heart disease have, I sense, this same kind of confidence for the long term.

This, then, is one option and an altogether wise one to adopt. But the artificial heart represents a completely different attitude, basically opposed. To be willing to invest the hundreds of millions of dollars that will probably be necessary for this one piece of new technology almost demands of its proponents the conviction that heart disease represents an unapproachable, insoluble biological problem. It tends, as I see it, to write off scientific research. It assumes that the best we will be able to do, within the next few decades anyway, is to wait until the underlying mechanisms of heart disease have had their free run, until the organ has been demolished and then to put into the chest

this nuclear-powered, plastic-and-metal, essentially hideous engine. I am convinced that this is the worng way to go. Even if it works, which I am afraid, is not at all unlikely, I cannot imagine how society will solve the problems of cost, distribution, and priority. Who will be entitled to buy and have installed these engines? Those with enough wealth to pay for them? Those who strike the rest of us, or our committees, as potentially useful citizens? Once we have started on this endless line of insoluable problems, there may be no turning back. If ever there were an urgent, overwhelmingly important problem in biomedical science it is with us now. Someone simply *must* provide us with a solution, quickly, to the problem of coronary arteriosclerosis. If this can be done, the artificial heart can become, overnight, an interesting and ingenious contraption, something clever and decorative but no longer a practical thing, with some of the charm of a Tiffany lamp—a sort of instant antique—and we will all be the better off for his transformation. Otherwise, we are in for real trouble, just ahead, and I'm not sure we have the collective intelligence in medicine to deal with it.

Much of what is done in the treatment of cancer, by surgery, irradiation, and chemotherapy, represents halfway technology, in the sense that these measures are directed at the existence of already established cancer cells, but not at the mechanisms by which cells become neoplastic. The policy problems that confront us now, with the nation's declared commitment to conquer cancer, are somewhat like those involved in the artificial heart question. There will be, for a while, anyway, a running argument between opposing forces. There will be, on one side, those who believe that cancer is a still unsolved but eminently approachable scientific puzzle, requiring only enough good research by imaginative investigators, on a broad enough biological base, and that provided with enough financial support, and enough time, we will one way or another, find ourselves home and dry.

On the other side, there will be those who believe themselves to be more practical men of the real world, who feel that we have already come about as great a distance toward understanding cancer as we are likely to move for some time, and that we should give the highest priority to applying, on a much larger scale, what we know today about this disease—that with surgery, chemotherapy, and radiation we can now cure or paliate a considerable number of patients, and what we need at this time is more and better technology of essentially today's model. I do not know how this argument will come out, but I believe it to be an issue of crucial, symbolic significance; whichever way it goes, it is possible that this will be the drift of biomedical science for the next decade.

I only wish that we could find a more comfortable zone of middle ground between those who believe that everything remains to be learned about cancer and those who believe that we already know enough to cope with it by today's approaches. Personally, I would prefer the middle ground, for I like a comfortable position, but I am afraid that I belong with the first group of extremists in this one—for, to be honest, I regard cancer as an entirely open, entirely unsolved problem, wide open to research, and soluble, and I regard the technology of today's form of therapy as paradigms of halfway technology, directed at the results of the disease rather than at underlying mechanisms.

It is characteristic of this kind of technology that it costs an enormous amount of money and requires a continuing expansion of hospital facilities. There is no end to the need for new, highly trained people to run the enterprise. And there is really no way out of this at the present state of knowledge. If the installation of specialized coronary care units results in the extension of life for only a few patients with coronary disease (and there is no question that this technology is effective in a few cases), it seems to me an inevitable fact of life that as many of these as can be built will be put together and as much money as can be found will be spent. I do not see that anyone has much choice in this. We are obliged, by the very nature of our professional responsibility, to adopt a new technology that will benefit patients with otherwise untreatable diseases, even when only a very small percentage will be benefitted, even when the costs are very high. Neither we, nor any other sector of society, controls this aspect of our economy. We cannot, like other industries, withhold a technology from the marketplace because it costs too much money or benefits too small a percentage of patients. The only thing that can move medicine away from this level of technology is new information, and the only imaginable source of this information is research.

The best we can do when the economic or logistic problems associated with our technology verge on the insupportable, or when the odds are too high against the success of our procedures, is to try to improve the technology, or to discover an altogether new technology, as quickly as possible. Meanwhile, however, we must continue to employ the less than satisfactory ones.

The near-miraculous achievements of the antibiotic drugs in controlling or eliminating our most serious bacterial infections—such as typhoid or lobar pneumonia, or epidemic meningitis—are useful indicators of the future direction of technology in medicine. They are, in fact, pieces of solid evidence that technology does work. But they should not be mistaken for symbols of the whole of medicine.

And this brings me to the third level of technology. This is the large body of what is best termed "non-technology." It is, in effect, the substitute for technology that medicine has always been compelled to use when we are unable to alter either the natural course of disease or its eventual outcome. A great deal of money is spent on this. It is valued highly by the professionals as well as the patients. It consists of what is sometimes called "supportive therapy." It tides patients over through diseases that are not, by and large, understood. It is what is meant by the phrases "caring for" and "standing by." It is absolutely indispensable. It is not, however, a technology in any real sense.

It includes the large part of any good doctor's time that is taken up with simply providing reassurance, explaining to patients who fear that they have contracted one or another lethal disease that they are, in fact, quite healthy.

It is what physicians used to be engaged in at the bedside of patients with diphtheria, meningitis, poliomyelitis, lobar pneumonia, and all the rest of the infectious diseases that have since come under control.

It is what physicians must now do for patients with intractable cancer, severe rheumatoid arthritis, multiple sclerosis, stroke, and advanced cirrhosis. One can think of at least 20 major diseases that require this kind of supportive medical care because of the absence of an effective technology. I would include a large amount of what is called mental disease and most varieties of cancer in this category.

The cost of this non-technology is very high and getting higher all the time. It requires not only a great deal of time but also very hard effort and skill on the part of physicians; only the very best of doctors are good at coping with this kind of defeat. It also involves long periods of hospitalization, lots of nursing, lots of involvement of non-medical professionals in and out of the hospital. It represents, in short, a substantial segment of today's expenditures for health. It is not as great a financial problem for the future as halfway technology, but between them, non-technology and halfway technology will sooner or later drive any system of health care that we may devise into bankruptcy.

If I were a policy-maker, interested in saving money for health care over the long haul, I would regard it as an act of prudence to give high priority to a lot more basic research in biological science. This is the only way to get the full mileage that biology owes to the science of medicine, even though it seems, as used to be said in the days when the phrase still had some meaning, like asking for the moon.

FINANCIAL STATEMENT

Mr. MOSS. Mr. President, approximately every 2 years—in each Congress—I have made public disclosure of my income and financial assets. I made my last public disclosure in 1973—the disclosure I make today updates the record through June 1975.

Past statements have shown the equity which I have in my homes. This statement has been prepared by Touche Ross & Co., Salt Lake City, based upon my tax returns and based upon the cost figures at the time of purchase.

I should mention that I receive lecture fees of between $5,000 and $10,000 a year—last year $8,750, small royalties on my book, "The Water Crisis"—last year $151, and small dividends from several marketable securities that I hold—last year $23. These are my only earnings outside my Senate salary, with the exception of $462.26 gross a month which I draw as retired military pay for my service in the U.S. Air Force. My wife has no separate assets, income, or earnings.

I ask unanimous consent that my current financial statement be printed in full in the RECORD.

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

SENATOR FRANK E. MOSS—STATEMENT OF ASSETS AND LIABILITIES—JUNE 30, 1975

Assets	*Costs*
Cash	$3,500
Marketable securities	204
Notes receivable	12,607
Cash surrender value of life insurance policies	18,500
Automobiles	2,000
Real estate:	
House in Washington	46,000
House in Salt Lake City	31,086
House in Maryland	73,000
Condominium at Bear Lake	39,500
Unimproved lot in Salt Lake City	8,000
	197,586
	234,397
Liabilities	
Note payable	9,600
Mortgages on real estate:	
House in Washington	3,335
House in Salt Lake City	13,627
House in Maryland	61,047
Condominium at Bear Lake	34,428
	112,437
	122,037
Net assets	112,360

HELP OF AMERICAN COLLEGES OF AGRICULTURE NEEDED IN FIGHT ON HUNGER

Mr. HUMPHREY. Mr. President, although American universities are doing a great deal in the way of training foreign students in the field of agriculture, it is apparent that their role can and should be expanded.

In light of the food shortages that are presently being felt in many parts of the world, particularly in the less developed countries, it is of extreme importance that agricultural training be expanded. American colleges are yearly providing an agricultural education to 5,200 foreign students, 410 foreign professors and post-doctoral students, and 200 American faculty members are currently abroad on teaching assignments. Last year, American colleges conducted cooperative programs with 500 foreign institutions, but 378 of these programs were conducted by nine colleges. This is indicative of the way in which the agricultural training capacity of our American colleges is being underutilized.

I am proud to be able to report that the University of Minnesota is playing a leading role in the campaign to train foreign agriculturists and, hence, benefit the world food situation. Yet the universities can and must intensify their efforts as trainers of foreign students in the ways of modern agriculture.

One vehicle for doing just that, and intensifying training programs at American universities, is the Famine Prevention Act. This bill would provide for an expanded use of our land grant colleges in agricultural training programs.

In considering this bill, it is important that we are made aware of the facts of the present situation and the extent to which our colleges are presently providing training for foreign students.

Mr. President, I ask unanimous consent that a summary of international activities of U.S. Colleges of Agriculture, prepared by John Blackmore, director of international agriculture programs at the University of Minnesota be printed in the RECORD.

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

A SUMMARY OF INTERNATIONAL ACTIVITIES OF U.S. COLLEGES OF AGRICULTURE

(Prepared by John Blackmore, Director, International Agricultural Programs, University of Minnesota, May 1975.)

In March 1975 a survey was made of the international activities of the colleges of agriculture at U.S. universities. Data were collected from 58 colleges including 50 First Morrill Act land-grant colleges, 7 Second Morrill Act land-grant colleges, and Southern Illinois University.

The international record of the U.S. colleges of agriculture is impressive, but their potential for assistance on world food problems is even more impressive. These colleges are now providing instruction for more than 5,200 foreign students. More than 1,000 of their faculty members are engaged in internationally significant research, and more than 2,800 faculty members have foreign experience gained from service abroad in the past 10 years. Over the past 20 years these colleges have had cooperative activities with more than 1,000 foreign institutions.

The U.S. colleges of agriculture are an enormous reservior of experienced professional talent with skills relevant to the world's food needs. There are nearly 1,400 faculty members with Latin American experience, more than 1,000 with Asian experience, and more than 700 who have worked professionally in Africa. This capacity is not being fully utilized with only 320 faculty members from 58 universities currently on overseas assignments. The 320 U.S. faculty members now on foreign assignments come from 44 universities. Only 13 universities have 10 or more staff members abroad, 14 reported none abroad, and 22 reported having from one to five on overseas assignments.

These U.S. colleges of agriculture have a great capacity for training foreign students. There are more than 5,200 foreign students currently enrolled in colleges of agriculture, with nearly 4,000 of these being graduate students and about 1,200 undergraduates. Only nine colleges have as many as 200 foreign students enrolled, 29 have less than 50, and 18 have 25 or less. Clearly the capacity for training foreign students in the U.S. colleges of agriculture is underutilized.

It is worth noting that USAID and FAO together are supporting only 915 of the 5,200 enrolled foreign students. There is broad agreement that one of the most effective aspects of our foreign assistance to agriculture is technical training, but the number presently supported seems very small in relation to the needs and the available capacity of the U.S. colleges of agriculture.

One of the most significant ways to help the food-deficit nations is to assist in improving their own capacities to train professional agriculturists. This year there are a total of 410 foreign professors and post-doctoral students in residence in the U.S. colleges of agriculture. This is a small number in relation to the need for staff development in colleges of agriculture in the developing nations.

In the last year the U.S. colleges of agriculture offered special training programs to more than 500 groups of foreigners who came to the U.S. campuses. Much of this training was highly skill-specific and short-term. The underutilized capacity for such training is suggested by the fact that 378 of these training programs were provided by only nine colleges.

INTERNATIONAL ACTIVITIES OF COLLEGES OF AGRICULTURE AT 58 U.S. UNIVERSITIES*

Agriculture college faculty now on overseas assignments, 320.

Agriculture college faculty now carrying on "international" research, 1,125.

Total agriculture college faculty engaged in research, 10,386.

Agriculture college faculty members who have served abroad for 3 months or more in the last 10 years, 2,806.

Agriculture college faculty members with work experience in: Asia and/or Middle East, 1,059; Africa, 737; Latin America, 1,377.

Foreign students in U.S. College of Agriculture: Undergraduates, 1,253; Graduates, 3,975.

Foreign post-doctorals and visiting professors in U.S. colleges of agriculture, 410.

Foreign students in U.S. colleges of agriculture with support from USAID or FAO, 915.

On-campus training programs for groups of foreign trainees in 1974, 538.

Foreign institutions with which U.S. colleges of agriculture have had some kind of cooperative projects in the last 20 years, 1,161.

Colleges of Agriculture with 200 or more foreign students and visiting professors:

California, Davis	391
Cornell	363
Wisconsin	359
Virginia Polytechnic Institute	319
Michigan State	316
Louisiana State	285
Minnesota	261
Florida	215
Ohio State	212

Colleges of agriculture with 50 or more foreign undergraduate students:

Louisiana	208
Virginia Polytechnic Institute	101
Cornell	78
California, Davis	72
New Mexico	70
Oregon	67
Texas A & M	67
Minnesota	55

Colleges of agriculture with 100 or more foreign graduate students:

Wisconsin	283
California, Davis	282
Cornell	246
Michigan State	243
Virginia Polytechnic Institute	213
Ohio State	195
Minnesota	186
Florida	179
Kansas State	132
Illinois	126
Texas A & M	126
Mississippi State	112
Purdue	110
Arizona	104
Iowa State	102

Colleges of agriculture with 50 or more foreign post-doctorals and visiting professors:

Michigan State	62
Wisconsin	56
Cornell	39
California, Davis	37
Illinois	23
Colorado State	21
Iowa State	20
Minnesota	20
Wyoming	20
Florida	15
Purdue	15

Colleges of agriculture with 20 or more AID and FAO supported foreign students:

Michigan State	75
Wisconsin	70
Florida	54
New Mexico State	49
Minnesota	43
Ohio State	42
Oklahoma State	41
Illinois	39
California, Davis	37
Iowa State	36
Colorado State	35
Purdue	34
Arizona	33
Kansas State	33
Kentucky	28
North Carolina State	24
Mississippi State	21

Universities with 10 or more faculty members currently abroad on assignments:

Wisconsin	31
Michigan State	21
Purdue	17
Minnesota	16
Texas A & M	14
Cornell	13
Iowa State	13
Kansas State	13
Utah State	13
California, Davis	11
Kentucky	11
Florida	10
Penn State	10

Colleges of Agriculture with 15 or more

*Includes 50 First Morrill Act Colleges, 7 Second Morrill Act Colleges, and Southern Illinois University.

faculty members with work experience in Asia and/or the Middle East:

Cornell	84
Michigan State	83
Utah State	75
California, Davis	65
Illinois	61
Ohio State	60
Tennessee	48
Texas A & M	46
Oregon State	41
Kansas State	36
North Carolina State	35
Purdue	27
Kentucky	27
Washington State	27
Minnesota	23
Nebraska	26
Hawaii	25
Penn State	25
Missouri	21
Wisconsin	20
Wyoming	20
Virginia Polytechnic Institute	19
Maryland	18
Florida	17
Massachusetts	16

Colleges of Agriculture with 15 or more faculty members with work experience in Africa:

Oklahoma State	150
Texas A & M	74
West Virginia	70
Kansas State	43
Wisconsin	38
Michigan State	37
Minnesota	27
Cornell	24
Massachusetts	21
Illinois	20
Utah State	16
California, Davis	15
Ohio State	15

Colleges of agriculture with 15 or more faculty members with work experience in Latin America:

Texas A & M	180
Utah State	175
Purdue	130
Iowa State	82
Michigan State	77
Florida	61
Cornell	59
Ohio State	58
Wisconsin	53
Arizona	50
New Mexico	46
California, Davis	30
Oregon State	24
Penn State	24
Puerto Rico	23
Minnesota	22
Southern Illinois University	21
Missouri	21
Illinois	20
Kansas State	20
Nebraska	20
Virginia Polytechnic Institute	20
Connecticut	15
Georgia	15
Rutgers	15
Oklahoma State	15

Colleges of agriculture with 15 or more fully engaged in international research:

Florida	114
Arkansas	96
Michigan State	75
California, Davis	50
Wisconsin	50
Iowa State	43
Illinois	43
Virginia Polytechnic Institute	40
Minnesota	33
Oklahoma State	29
Georgia	25
Purdue	25
Cornell	25
Delaware	22
Colorado State	20
Southern Illinois University	20
North Carolina State	20
Rhode Island	20
Texas A & M	20
Utah State	20
Kentucky	18
Rutgers	18
Penn State	18
Kansas State	15

Colleges of agriculture with 20 or more special training programs for groups of foreign trainees:

Hawaii	135
California, Davis	35
Utah State	34
Auburn	29
Kansas State	29
Nebraska	26
Michigan State	22

Colleges of agriculture with cooperative programs with 15 or more foreign institutions in the last 20 years:

Auburn	125
Rhode Island	120
Michigan State	108
Utah	90
Purdue	81
Illinois	69
Mississippi State	58
Florida	50
Cornell	50
Hawaii	35
California, Davis	30
Virginia Polytechnic Institute	26
Oklahoma State	25
Ohio State	23
Vermont	20
Wisconsin	20
Kansas State	18
Arkansas University	17
Southern Illinois University	16
Minnesota	16
Iowa State	15
Texas A. & M	15

THE HOUSING VETO

Mr. BIDEN. Mr. President, the recent veto by the President of the Emergency Middle Income Housing Act, H.R. 4485, is only further evidence of this administration's lack of concern for the housing needs of our country.

The administration has already ignored the elderly and the handicapped. It has refused to implement the housing programs which we enacted to meet their needs last year. Only after the Comptroller General ruled that the funds had been impounded did the administration admit that it would begin to take action on these programs.

Through its haphazard implementation of the section 8 program which we enacted last year—implementation carried out at a snail's pace—the administration is clearly not moving to provide adequate housing for our poor. Furthermore, the number of new housing starts under this program for low-income people is far below anyone's expectations.

And now comes the latest blow. It is a blow not only to those middle-income taxpayers who want to purchase decent homes at a decent interest rate, but also to those who are unemployed and about to lose their homes. Furthermore, it is a conscious effort to ignore the unemployment rate in the construction industry—a rate which is approaching 20 percent.

H.R. 4485, which was vetoed by the President, would have enabled people to receive mortgage subsidies so they could purchase homes at a 7-percent interest rate. It would also have allowed the Department of Housing and Urban Development to make certain mortgage payments on behalf of those who are currently unemployed.

Most importantly, Mr. President, H.R. 4485 meant jobs. The number of jobs which would have been created under this bill has been conservatively estimated at 500,000 and may have been in the neighborhood of 800,000. At a cost of $1.25 billion, much of which was to be repaid to the Government, this is the cheapest form of way we know how to create jobs. And, it involved the private sector entirely.

Where do we go from here Mr. President? As unemployment continues to stay at a high level, we in Congress will be faced with more proposals to create public service jobs, proposals which are far more inflationary than the bill vetoed by President Ford. Furthermore, he may have no alternative but to sign those bills. We will also no doubt enact a watered-down version of H.R. 4485, a version which will probably be no more inflationary than H.R. 4485, but one which will not have nearly the effect.

Mr. President, as a member of both the Budget and Banking Committees of the Senate, I have become deeply concerned, as we all have, about the inflationary impact of Government spending. In this case, however, it has been pointed out that there would have been a net gain to the budget of between $2 and $3 billion. With our economy and our housing industry at their lowest points in over 30 years, I think it unconscionable that the President chose to ignore the needs of the middle-income taxpayer and the unemployed worker and vetoed this bill.

USING WATER TO SAVE OIL

Mr. METCALF. Mr. President, in our continuing debate over the best way to resolve the Nation's energy problems, I am amazed that mention is so seldom made of one of our most proven and cleanest sources of electrical energy.

I am speaking of hydroelectric power—a renewable source of energy which is too often taken for granted and too often neglected in our search for greater self-sufficiency in meeting the Nation's energy needs.

One of the advantages of hydroelectric power is its potential for saving finite fossil fuel resources, especially when used in conjunction with conventional and nuclear powerplants to meet peak demands for electricity.

The June 1975 issue of the magazine Electrical Contractor contained an article on this subject by the Commissioner of the Bureau of Reclamation, Gilbert G. Stamm. I commend this article to my colleagues and I ask unanimous consent that it be printed in the RECORD.

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

USING WATER TO SAVE OIL

(By Gilbert G. Stamm)

In its rush to develop new and alternative sources of energy—including such untested

possibilities as solar, wind and geothermal power—America may be overlooking one of its already proven resources: hydroelectric power.

Although not the ideal solution in every case, hydro power still has plenty of untapped possibilities for easing U.S. dependence on foreign oil to generate electricity.

The use of hydropower both as a primary source of electricity and to meet peak demands for power in several areas throughout the country is already conserving a significant amount of costly oil, saving money for utilities and consumers while reducing the flow of petrodollars to the Middle East.

Hydroelectric plants currently account for about 14 per cent of total U.S. electric generating capacity. As of May 1974 about 1,430 conventional hydro plants, both publicly and privately owned, had an installed capacity of 54.9 million kilowatts capable of generating an average of 260 billion kilowatt-hours of energy per year. Some 60 per cent of this capacity is located in the Pacific and mountainous area of the western U.S.

While the amount of energy currently provided by hydropower is impressive, it represents only 30 per cent of the potential undeveloped conventional hyydroelectric capacity of the United States. A Federal Power Commission report published in January 1972, estimated the total potential of undeveloped hydro capacity at about 125 million kw, capable of generating 445 billion kilowatt hours annually.

If only half of this potential—220 billion kwh—were developed, it would provide a savings of one million barrels of oil per day, which is the stated conservation goal of the Administration.

Oddly enough, major potential sites for conventional hydropower facilities totaling more than 240 billion kwh have already been identified by the 1972 FPC study. They include these major drainage areas: North Atlantic, 18 billion kilowatt-hours; Ohio, 15 billion kwh; Missouri, 36 billion kwh; Colorado, 24 billion kwh; North Pacific, 123 billion kwh; and, South Pacific, 28 billion kwh.

Although some of the potential hydro capacity of the U.S. may never be developed for a variety of economic, environmental, or other reasons, dramatic increases in the cost of fossil fuels such as oil, gas and coal coupled with the growing demand for electric power is making the potential of hydropower development more attractive than ever before.

Why? Because conventional hydroelectric projects have the advantage of using a renewable resource—water—and producing electric power without consuming fuel resources or causing air or water pollution. Also, hydroelectric plants have a relatively long service life. Another major advantage of hydropower is its ability to supply power on short notice with little loss of efficiency, making hydro particularly attractive for meeting peak power needs.

Pumped-storage facilities—as distinct from conventional projects—function exclusively for peak power generation by acting as a kind of storage battery. Under this concept, water is pumped from a lower to an upper reservoir in off-peak load periods and is stored there waiting to be released when needed. The flow is reversed to generate power during periods when power demands are greatest.

The advantage of pumped-storage is that maximum power can be produced during that time of day when it is needed most. The generating units are able to start up quickly and make rapid adjustments in power output, and they operate efficiently whether they are used for one hour or for several. The disadvantage of pumped-storage is that it consumes three kilowatt hours to produce two.

Most hydroelectric projects, whether conventional or pumped-storage, are ideal for peaking service when operated in conjunction with large nuclear or fossil-fuel steam electric units which operate best at high plant capacity factors.

The concept is simple. Most electric utilities generate their basic load requirements by burning fossil fuels (oil, gas, coal) or by using nuclear power. But to meet peak demands during certain times of the day (and year) the utility must either have additional generating capacity on hand—an expense which is reflected in the utility's rate structure—or it must be able to obtain large amounts of power in a hurry. That's where hydro power comes in, either from the power company's own facilities or by purchases from other suppliers of hydropower such as the Bureau of Reclamation.

It works the other way, too. Often, when the demand goes down at night, the utility has a surplus of coal-fired or nuclear generated power which the Bureau will buy back from the utility to meet its firm commitments to other customers while reservoir water is saved to generate more hydropower during the next peak demand period.

This arrangement of "peaking with hydro" is already saving a significant amount of oil. Under a Bureau of Reclamation oil conservation program, the use of power from federal hydroelectric facilities in the Missouri and Colorado River Basins for peaking purposes saved an estimated 5.5 million barrels of oil in 1974—oil which otherwise would have been burned to meet peak demands for electricity in such cities as Minneapolis or Phoenix.

Hydropower not only saves oil in meeting peak demands for energy, it saves fossil fuel resources in meeting the daily requirements for electricity of millions of people throughout the nation.

The power produced and marketed by the Bureau of Reclamation, for example, would meet the residential requirements for one year of New York City, Washington, D.C., Dallas, Chicago and San Francisco. If the hydroelectric energy produced at Reclamation's 50 powerplants were produced from fossil fuels, it would require annually the equivalent of either 60 million barrels of oil (about $720 million worth of oil at $12 per barrel) or 17 million tons of coal.

In addition to the power produced at its own plants, the Bureau of Reclamation markets power from six Corps of Engineers plants and one plant owned by the International Boundary and Water Commission, with a combined capacity of over 2 million kilowatts.

Although the nation's hydroelectric capacity continues to grow, the amount of hydroelectric power as a percentage of total U.S. electric generating capacity is expected to decline because of increased generating from all sources—coal, gas, oil and nuclear.

Hydropower is not an instant solution to the nation's energy problems. There are upper limits to its development, both from an environmental and economic standpoint, and because of competing demands for water, especially in the west where many of the prime, undeveloped hydro potential sites are located.

Even so, this old and proven method of creating electricity by controlling the force of falling water can play a highly significant and beneficial role in reducing U.S. dependence on fossil fuels. The need for more energy which is both cleaner and less expensive demands that every possibility be explored.

INDEPENDENCE FOR MOZAMBIQUE

Mr. HATHAWAY. Mr. President, halfway around the world today a signal event is taking place—the Portuguese Colony of Mozambique today becomes an independent nation. This event deserves more thought and attention than I regret to say the United States seems inclined at this time to give it. For the birth of a new nation is not only an occasion of profound significance to its own citizens and to the other nations of the world; but it also can serve as a reminder of the origins of our own country and of who we are, what we stand for, and where we have come from.

The independence ceremonies taking place today in Mozambique are the culmination of the Mozambican people's long struggle to free themselves from foreign control. Mozambique has been a Portuguese colony for nearly 500 years, during which time its people have made repeated attempts to obtain what we know to be the right of any people: self-government. From 1550 until the early 20th century, wars, and rebellions demonstrated Mozambican unwillingness to be a cog in the Portuguese machine of empire. Indeed, the prolonged resistance to Portuguese intentions delayed full colonization of Mozambique until after World War I.

It has, for us, been nearly 200 years since we ourselves were a colony. It is easy for us to forget that a colony exists to serve the economic desires of the mother country. Mozambique, like British North America, was restricted to the production of raw materials while industrialization long remained the preserve of England. As colonies, our trade, our people, and our taxes were controlled by Great Britain not out of concern for how best they might benefit us, but rather in accordance with the needs and interests of England as she perceived them. Colonial rule does not change, even in 200 years.

For years, Portugal has pegged the purchase prices of Mozambique—produced sugar, cotton, tea, and sisul at artificially low prices, so as to be able to buy cheap in Mozambique and sell them dear on world markets at higher world prices and at good profit. But Portugal's practices went beyond mere commodities manipulation. Since 1909, Mozambique has provided 100,000 workers each year for the gold mines of South Africa. By the terms of an agreement between Portugal and South Africa, the Mozambican workers were actually paid only 40 percent of their salary. The remaining 60 prcent of their salaries was paid in gold bullion to a Mozambique bank at the official exchange rate of $32 to $42 per ounce. Using local currency, the Bank of Portugal then purchased the gold for later sale on the world market at prices recently exceeding $150 per ounce. It is no wonder that such milking of Mozambique for Portuguese profit invited a response from the Mozambicans themselves.

In 1962, a patriotic organization was established for the purpose of securing Mozambican independence. Called the Front for the Liberation of Mozambique, FRELIMO, it was led by Eduardo Mondlane, a sociologist who had received his graduate degrees at Northwestern University and who had worked for the United Nations. Starting in the fall of 1964, FRELIMO freedom fighters began the slow and difficult conquest of their own country. As areas were liberated

from Portuguese control, FRELIMO agricultural technicians, medics and schoolteachers arrived on the heels of the troops in order to restore peaceful civilian rule as quickly as possible.

At the height of the war, Portugal had as many as 60,000 troops in Mozambique, while FRELIMO had an army of between 10,000 and 20,000. Its victory against such odds is a tribute not only to its military abilities but to the political esteem with which it has been held by Mozambicans, without which FRELIMO surely could not have survived.

By virtue of the test of the struggle, FRELIMO is a political party which has the confidence of the people and the confidence to rule. It is prepared to undertake the identification and solution of the many urgent problems it now faces. The new president, Samora Machel, is already a legend in his own time and ably replaced Dr. Mondlane as leader of the revolution upon the latter's assassination by the Portuguese secret police in 1969.

Unfortunately, throughout this recent history, the United States has actively supported Portugal at the expense of Mozambique. This is especially tragic in view of our national principles, beliefs and revolutionary beginnings. Something is terribly wrong when in our annual patriotic days of observance we speak of our noble revolution against tyranny and exploitation, but all the while, in our daily acts, we cynically support racist and colonial African powers and so make liars of our orators.

Our support of Portugal in its war against Mozambique has resulted in an understandable degree of Mozambican suspicion of the United States. It appears that we supplied helicopters, planes, napalm, and other war material to Portugal, notwithstanding a self-imposed embargo on supplying such aid and arms for this war. Something is askew in our character when our own early experiences as a new nation are forgotten, replaced instead by a preference for countries which support and maintain the very principles of George III which we threw off so long ago.

Mozambique today sees America not only as the supplier of bombers and napalm used against its people by the Portuguese, it also sees us as a supporter of racist regimes in South Africa and Rhodesia. Obviously, Mozambique and the rest of Africa see little in our actions to remind them of our fundamental political beliefs. In stark contrast, Portugal has changed its attitudes and is no longer perceived as an enemy.

It is thus no wonder, Mr. President, that representatives of the United States were not even invited to attend the ceremonies of independence taking place in Mozambique today, events at which the Portuguese are honored guests.

There was, however, a moment of hope last fall when Donald Easum, of our State Department, scored a great diplomatic breakthrough by being the first foreign diplomat to hold talks with the barely-formed transitional government of Mozambique. Mr. Easum enjoyed the trust of many African leaders and one might have expected that in our relations with Mozambique there was a chance to rectify past mistakes and misunderstandings. However, this was not to be. Shortly after his return from Mozambique, Mr. Easum was abruptly stripped of his post and replaced by Nathaniel Davis.

Because of his ignorance of Africa and his role in the downfall of the Allende government in Chile, Mr. Davis' appointment was seen by Africans as an unmistakably ominous sign that our policy in Africa was going to continue to ignore the needs and wishes of the scores of African nations which have secured their independence from European powers since 1957. This sort of policy insensitivity results in long-term losses to this country. We have recently seen further erosion of our African position in Zaire's expulsion last week of our representative to that country. Why? Because our African policies constitute an embarrassment, even to Zaire.

It is my hope, Mr. President, that with Mozambique we will now commence upon a more intelligent course. We should immediately recognize the new government of Mozambique as the legitimate government of people who have finally succeeded in gaining their independence from a foreign government located thousands of miles away in Europe. We ought to prepare to render technical and scientific help and training to Mozambique as well as other forms of assistance as it may be desired by Mozambique. We should encourage this new nation and its ambitious people.

In doing this, we may begin to rectify some of our past neglect of Africa and to begin again to live up to the principles on which our own country was built. Indeed, in this, our Bicentennial period, it would be most fitting that this oldest democracy, once a colony, renew its faith in itself by supplying to Mozambique—the oldest of colonies, the newest of nations—the recognition which we ourselves so welcomed and needed so long ago from those few nations who from the beginning had faith in the United States.

THE PRESIDENT'S VETO OF THE EMERGENCY HOUSING ACT OF 1975

Mr. HUMPHREY. Mr. President, in his veto message on H.R. 4485, the Emergency Housing Act of 1975, the President gave a variety of contradictory reasons in support of that veto. I would like to evaluate these reasons with my colleagues.

The President said it could not be implemented without substantial delay.

This is probably correct if we are to use HUD's behavior in slowly developing regulations for the section 8 program as a guide. The delay, of course, would occur only if the administration delays in promulgating the necessary rules and regulations. In that situation, the President is simply making a self-fulfilling prediction.

The President stated it would delay for months putting construction workers back to work.

A puzzling point to raise by the President who has offered nothing, other than a belated release of $2 billion provided by Congress last fall, to put these same workers back to work.

How quickly they regain work would be a direct function of the administration's speed in promulgating rules and regulations. Again, this is a self-fulfilling prediction.

Finally, under H.R. 4485, those construction workers would, in fact, have work later this year to perform. By the administration's own estimate, $770 million would flow directly into housing this coming fiscal year due to H.R. 4485—that means about 800,000 new jobs.

The President offers no alternative way to provide these 800,000 jobs.

Administration assistance to the housing industry is at unprecedented levels and has contributed to a housing recovery, "clearly under way".

Nothing could be further from the truth. The housing industry continues to be in its worst postwar depression:

Housing starts in May were at a 28-year low for the month of May;

The price of housing has been pushed by inflation beyond the reach of most Americans; a recent Joint Economic Committee study found that only 20 percent—a level one or 2 percentage buy the average-priced existing home; and a slight 15 percent could afford to buy the average-priced new home;

Unemployment in housing is close to 40 percent;

Mortgage rates are still close to 9 percent—a level one or 2 percentage points too high to spark a housing boom;

The stock of unsold homes, including condominiums, is 600,000 units—down only 20,000 or so units since the February record level.

I could go on and on.

But the fact is that the administration has declared that the housing industry is on the road to recovery—based on just a 1-month increase in May in housing starts and permit-issuance figures.

I suppose that any upward movement in the housing industry looks good from the bottom of a depression, but a 1-month rise is scarcely cause for jubilation. This is particularly true when we recall in the case of May's statistics that,

First, housing starts in May, traditionally a big construction month, were actually 25 percent below May 1974 figures; and

Second, building permits issued in May, traditionally a strong leading indicator for the housing industry, were 20 percent below the May 1974 level.

In short, the housing industry continues to be caught in the grips of a severe depression with no end in sight.

The President claimed it would increase Federal expenditures by more than $2 billion over the life of the program.

It would also create about 800,000 jobs and 400,000 houses—raising tax receipts $5 to $10 billion and thereby actually cutting the Federal budget deficit.

The budget impact is strongly positive because idle resources will be employed and taxes paid on the value of their production.

The President said the legislation would prescribe interest rates well below the level needed for a sound and healthy housing industry.

Yes; it would reduce interest rates in the housing industry. But it is simply inane—absurd—to contend that interest rates above 7 percent will yield a healthy housing industry.

The President mentions 1973, when more than 2 million housing units were started and interest rates were above 7½ percent. He should be aware that 400,000 of these units were publicly assisted—and that the average actual interest rate as a result was below 7 percent.

The President argued it would create enormous inequity among citizens of different regions of the country.

There are enormous inequities among citizens of different regions of the country, so the bill must treat them differently.

The well-to-do will receive no subsidy while middle-income working people will receive them.

Large families—who need larger housing—receive larger subsidies than smaller families.

Families and individuals living in high cost areas—like New York City—receive higher subsidies than those in low cost areas.

The legislation sought to and does dampen inequities and not as the President apparently feels, exacerbate them.

The President said the level of mortgage subsidies would give some buyers an excessive benefit at the taxpayer's expense.

That is half true. It would, for example, assist low and moderate income working families acquire sound housing—while not assisting well-to-do families at the same time.

It is not true that these benefits would be at the taxpayer's expense as I noted earlier—it would raise revenues as much as $5 to $10 billion.

Despite his veto, the President did come forward with a positive proposal to stimulate housing—he released about $2 billion in funds provided under the Brooke-Cranston bill of last fall—funds to be used for acquiring mortgages in the secondary mortgage market, thereby freeing up funds for homeowners to borrow.

He presented this proposal with a flourish.

Let us set the record straight.

Congress authorized that program with a total of $7.75 billion in funds almost 1 year ago. It was our intent to have the funds used then. But by Christmas, the President had released only one-quarter of the funds.

After extensive criticism last winter by Congress he released an additional one-half of the funds.

So, it has taken him almost 1 full year to release housing funds Congress wanted to use last fall in order to avoid the present housing recession.

He is taking credit for a step which is far too little and far too late.

FORMATION OF FOUR AD HOC TASK FORCES TO THE BUDGET COMMITTEE

Mr. MUSKIE. Mr. President, the new Budget Reform Act requires the Budget Committee to recommend to Congress concurrent resolutions establishing "appropriate" fiscal policy—appropriate not only in terms of the next year's spending and revenues, but in terms of the health and future growth of the American economy.

In this time of high unemployment and serious economic dislocation, and at a time when our free enterprise economy is being challenged by the international oil cartel, this is no small undertaking. It requires us to look ahead 5 years or more as we make every decision. It requires that Federal spending and taxing policy be mobilized in a coherent fashion. It requires that Federal fiscal policy support the productive resources of our free enterprise economy—labor, management, and capital—and insure that they are utilized in a way that will accommodate the fundamental changes which energy scarcity, for example, will bring.

Toward these ends, I am today announcing formation of four ad hoc task forces of the Budget Committee. Each will investigate a critical issue which must form part of Congress frame of reference in fiscal and economic decisionmaking. Each will report by February 15, 1976. There will be some interim reports before the second concurrent resolution this fall.

The four task forces are as follows:

Energy, FRANK E. MOSS, chairman; ERNEST F. HOLLINGS, JOSEPH R. BIDEN, JR., SAM NUNN, J. GLENN BEALL, JR., JAMES A. MCCLURE, and PETE DOMENICI.

The energy task force will hold a series of seminars for the full Budget Committee during July, emphasizing the interrelationships between our energy options, our economy and fiscal policy. The task force will undertake specific investigations during the period remaining until February 15.

Defense, ERNEST F. HOLLINGS, chairman; WARREN G. MAGNUSON, ALAN CRANSTON, LAWTON CHILES, JAMES ABOUREZK, ROBERT DOLE, and JAMES L. BUCKLEY.

The defense task force will undertake a "mission approach" to defense expenditures which will, the committee hopes, move us toward an evaluation of the defense budget in terms of broad foreign policy and military needs and objectives.

Tax policy and tax expenditures, WALTER F. MONDALE, chairman; FRANK E. MOSS, JAMES ABOUREZK, JOSEPH R. BIDEN, JR., ROBERT DOLE, J. GLENN BEALL, JR., and PETE DOMENICI.

The Budget Act requires that tax expenditures be treated like spending programs—that is, with full recognition that they result in revenue sacrifices intended to achieve public policy objectives. They must be analyzed with the same perspective as any other spending program. The Budget Committee has a mandate to review these tax expenditures each year. This task force will provide you with the critically important spade work. The use of tax expenditures to encourage capital formation will be an area of major emphasis.

Capital needs, LAWTON CHILES, chairman; WARREN G. MAGNUSON, WALTER F. MONDALE, SAM NUNN, J. GLENN BEALL, JR., JAMES L. BUCKLEY, and JAMES A. MCCLURE.

There are at least two important dimensions of the capital needs problem:

Will the Nation allocate sufficient capital development over the next decade and beyond?

Will the Federal borrowing tend to crowd out private borrowing?

The capital needs task force will report on the latter by September, in time for the second concurrent resolution, and on the broader question of long-term capital needs by next February.

The Senate Budget Committee has studiously avoided involvement with "line-item" kinds of decisions which are the prerogative of the authorizing and appropriations committees. This policy is consistent with the need to acquire an understanding of the fiscal implications of broad areas of national policy. Our hope is that by melding these four investigations together, we will be able to provide the Senate with a frame of reference and long-term perspective for making responsible budgetary and economic decisions.

U.S. DISTRICT COURT OF CALIFORNIA DECISION IN GRIZZLY BEAR CASE

Mr. METCALF. Mr. President, another chapter has unfolded in the continuing controversy over management of grizzly bears in Yellowstone Park with the finding by a U.S. district court in California that the National Park Service was negligent in the death of Harry Walker, a young man who was killed by a grizzly bear while camping in the summer of 1972.

The controversy stems from the abruptness with which the Park Service closed garbage dump feeding areas to the bears. Agency officials disputed the contention of students of the grizzly bear, principally Drs. John and Frank Craighead, who maintained the dumps should be closed gradually and the bears physically transported to more distant parts of the park and fed there during their transition back to a wild state.

I ask unanimous consent that the court's decision, rendered by Judge A. Andrew Hauk, be printed in the RECORD.

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

[United States District Court, Central District of California—Civil No. 72-3044-AAH]

MODIFIED FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER FOR JUDGMENT

Dennis G. Martin, as Administrator of the Estate of Harry Eugene Walker, Deceased, Plaintiff, v. United States of America, Defendant.

Upon the Court's own motion, and the Defendant United States of America having on March 31, 1975, filed its Objections to Plaintiff's Findings of Fact, Conclusions of Law and Judgment, one day within the two week time period after Plaintiff lodged his Findings of Fact and Conclusions of Law and Order for Judgment on March 18, 1975, all as ordered by the Court on February 24, 1975; and

The Court having inadvertently signed and entered Findings of Fact and Conclusions of Law and Order for Judgment herein on March 26, 1975, prior to the receipt of Defendant's said objections; and

Good cause appearing therefor, the Court now makes, signs and orders entered the fol-

lowing Modified Findings of Fact and Conclusions of Law and Order for Judgment, after having fully considered defendant's said objections:

On December 20, 1972, a complaint under the Federal Tort Claims Act, being 28 U.S.C.A. Section 2671, et seq. and 28 U.S.C.A. Section 1346b, having been filed in this Court against the United States of America as defendant, by Dennis G. Martin, Administrator of the Estate of Harry Eugene Walker, Deceased, pursuant to Letters of Administration duly issued to said Dennis G. Martin by the Superior Court of the State of California, County of Los Angeles, case number EAP-9456, Zetterberg & Zetterberg, and Stephen I. Zetterberg, attorneys for plaintiff, claiming damages for the wrongful death of Harry Eugene Walker, on behalf of the surviving mother and father and three sisters of said decedent, Harry Eugene Walker; and

On or about September 14, 1972, the defendant United States of America having appeared by William D. Keller, United States Attorney, Frederick M. Brosio, Jr., Assistant United States Attorney, Chief, Civil Division, and William B. Spivak, Jr., Assistant United States Attorney, and said defendant United States of America having answered, and the Court having heard and disposed of all motions and pre-trial proceedings, and the case having been brought to issue; and, the case having duly come on for trial before this Court, the Honorable A. Andrew Hauk, Judge presiding, on January 9, 1975, before the Court without a jury pursuant to the Federal Tort Claims Act, testimony having been taken January 9 through January 17, 1975, and the case having been recessed, and further testimony having been taken February 18 through February 24, 1975, evidence, oral, written, and documentary, having been introduced, and defendant United States of America having submitted evidence offered in behalf of its defense, and the parties having rested, and due deliberation having been had thereon by the Court:

I do decide as follows:

FINDINGS OF FACT

1. Decedent Harry Eugene Walker, age twenty-five on the date of his death, was killed by a grizzly bear on the night of June 24-25, 1972, while camping in the Old Faithful Subdistrict of Yellowstone National Park, State of Wyoming, United States of America.

2. Defendant owned, operated and maintained said National Park as a place to which members of the public, including decedent, were invited for recreational purposes, to the benefit of defendant.

3. Defendant's Rangers on duty when the decedent entered the Park at the north entrance of Yellowstone National Park permitted the decedent to enter without paying the usual admission charge.

4. In particular, defendant invited and encouraged many people, including decedent, to camp within the confines of the Park, both within improved campgrounds and in backcountry, and defendant knew that many people did, at and before the date of decedent's death, in fact, camp and sleep out in the backcountry areas of the Park, and in the country in and adjacent to the developed area at Old Faithful, in the Old Faithful Subdistrict of the Park.

5. Defendant, through its various grizzly bear control programs, exerted control over the behavior of grizzly bears, including the particular bear that killed decedent, in that it could and did exert control over the number of bears, the ranges of the bears, including the bear that killed decedent, their diet, and the relative danger they posed to Park visitors.

6. Prior to decedent's death, defendant had abruptly closed backcountry garbage dumps, including Rabbit Creek garbage dump, about four miles from the Old Faithful developed area. This and other such garbage dumps had been used by grizzly bears for years as a part source of food. Defendant knew, from partial dump closures in 1968 and 1969, and from dump closures thereafter, that abrupt closure of the garbage dumps was an extremely hazardous activity. Defendant had been previously warned that if it carried out such abrupt closure, there could be a resulting visitor death from grizzly bear attack.

7. It was the duty of the defendant and its employees at Yellowstone National Park to warn all visitors, including the decedent, of park dangers known to the defendant. Whether the decedent be said to be a business invitee, a business licensee, a business visitor, or a gratuitous licensee, the defendant at all times had a duty of warning him and all other persons in Yellowstone Park of hidden dangers and of dangers of camping or sleeping or walking near to and including the area where the body was found, which the Court finds was within a developed area. The defendant had knowledge, prior to and at the time of decedent's death, that backpackers and hitchhikers were in the Old Faithful area, including the developed area, sleeping out at night. Warnings could have been made of the grizzly bear dangers to such campers resulting from the program of abrupt closing of garbage dumps undertaken by defendant. Such closing imposed an extra hazard of grizzly bear danger to campers and backpackers sleeping out in such area. Warnings could have been made by signs, and signs could have been made pointing to campgrounds and campsites within a reasonable distance. The Park willfully and intentionally failed to provide such warnings and place such signs despite the minimal cost thereof.

8. Furthermore, prior to 1968, the brothers Dr. Frank C. Craighead and Dr. John J. Craighead, through studies sponsored by many institutions, including the National Geographic Society, the National Science Foundation, and others, through the Montana Cooperative Wildlife Research Unit at the University of Montana, and by the Environmental Research Institute, by independent research conducted in Yellowstone National Park commencing in 1959, had developed a system of radio monitoring grizzly bears instrumented with radio collars, and of visually tagging grizzly bears, so that the habits, ranges, and movements of grizzly bears could be observed. The defendant, under the administration of Superintendent Anderson commencing in Yellowstone in 1968, willfully and intentionally stopped all of such radio monitoring and tracking as recommended by the Craigheads, and contrary to the defendant's own so called "Leopold" report, discontinued monitoring and visual tracking, and willfully and intentionally removed devices recommended by the Craigheads for such monitoring, despite evidence which showed that radio monitoring devices could have been furnished and installed for between $3,000 and $6,000. The evidence shows that the defendant's administration at Yellowstone National Park, instead of discontinuing the monitoring plan, should have radio monitored bears which were trapped for transplanting, including the bear trapped in 1970, identified as number 1792, which killed Harry Walker in 1972. The evidence showed increased grizzly bear activity in and around the developed areas of Yellowstone National Park, which had been near the garbage dumps which were closed. It was negligent on the part of the defendant, at the time it undertook the extra hazard of closing down the garbage dumps, willfully and intentionally to discontinue radio and visual monitoring as recommended both by the Craighead brothers and by defendant's "Leopold" committee. Defendant's own reports, including the report prepared for the defendant by the National Academy of Sciences, showed that before the stopping of radio monitoring and of identifiable visual color markings which had been used by the Craigheads in grizzly studies before the Park administration changed in 1968, information and statistics on grizzly bear activities were more reliable and better than those available after the system was curtailed, starting in 1968. The defendant should have allowed independent research on the grizzly bear such as had been conducted by the Craighead brothers prior to 1968. The need for continued research was confirmed by the study made for the defendant by the National Academy of Sciences, which in July, 1974, reported that the research program carried out by the National Park Service administration since 1970 has been inadequate to provide the data essential for devising sound management policies for grizzly bears in the Yellowstone ecosystem.

9. The defendant adopted the "abrupt" program for closing of the dumps, rather than following the "phasing out" closure procedures as recommended by Dr. Frank Craighead. Both Dr. Craighead, and the "Leopold" committee appointed by the defendant, had recommended supplementary "carrion feeding" of the bears in the backcountry as a procedure which should have been adopted during the phasing out of the garbage dumps.

10. The bear that killed decedent, number 1792, was an old female, with worn and broken teeth, that had been captured and trapped in, and transplanted approximately 18 miles from, the developed area of the Old Faithful Subdistrict of Yellowstone National Park, by agents and rangers of the defendant, on about October 14, 1970. When the defendant trapped grizzly bear number 1792, it failed to transfer the bear a sufficient distance, considering grizzly bear homing instincts of which defendant had knowledge, to return to the Old Faithful area. The bear did again visit the area, where it killed the decedent. The Park Service at Yellowstone could and should have removed the bear a sufficient distance so that she would not have come back.

11. Defendant failed to exercise due care toward decedent in the following respects:

a. Defendant failed to provide decedent and other Park visitors adequate warnings about the dangers posed by grizzly bears, which defendant knew to be dangerous animals within the Park.

b. In carrying out its program of grizzly bear management and control, defendant abruptly closed garbage dumps in Yellowstone National Park at which grizzly bears formerly fed, thus negligently creating an unreasonable danger to Park visitors, including decedent, from grizzly bears, including this grizzly bear.

c. Defendant failed to take adequate precautions to mitigate the extreme danger created by abrupt closure of the garbage dumps, and failed to warn visitors, including decedent, of the special danger, although it could and should have done so at minimal cost and expense to it.

d. Defendant was aware of the dangers of grizzly bears to Park visitors. Defendant, knowing such dangers, did undertake some inadequate precautions, but such precautions were carelessly and faultily planned, and negligently executed.

e. In 1970 defendant captured the particular bear that later killed decedent. Defendant then had knowledge that the bear was dangerous to visitors and was likely to return to the Old Faithful Subdistrict, but negligently failed to transplant the bear an adequate distance or to eliminate it from the grizzly bear population in Yellowstone National Park, in particular the Old Faithful Subdistrict thereof, including the developed area in and around Old Faithful Village.

Defendant was negligent in that it failed to act with reasonable prudence, considering the information available to it, concerning the particular bear that killed Harry Eugene

Walker. Prior to the capture and transfer of this particular grizzly bear in October of 1970, it had been seen four to six times in the developed area of Old Faithful Village near a garbage holding area behind a restaurant, in an area frequented by humans, thus displaying dangerous lack of respect for humans. Moreover, when the bear was captured in October, 1970, it was an old female grizzly; Dr. Frank Craighead testified that it would have been prudent to examine the bear's teeth, which in 1972 were found to be worn; the bear was less able to be competitive for food with younger and stronger bears, and therefore more likely to invade camp areas in search for food, making the bear unreasonably dangerous to humans. Further, at the time of its capture, defendant had knowledge that in late August or early September, 1970, along the Fire Hole River near the Old Faithful Developed area, a campsite had been destroyed by a bear, the owner of the campsite was missing, and never found, and the defendant rangers had determined the campsite had likely been destroyed by a bear, possibly a grizzly bear, but negligently failed to act with reasonable prudence in that defendant failed to consider the possibility that the bear which destroyed the said Fire Hole River Camp prior to October, 1970, could have been the bear which was trapped and transplanted in 1970, and which later killed Harry Eugene Walker.

12. As a sole, direct, and proximate result of each of the negligent acts and omissions of defendant, taken individually and together, including and as a direct and proximate result of the activity of abrupt closing of garbage dumps, and as a direct and proximate result of defendant's failure to avert an attack on the decedent by prudent control action on the grizzly bear which killed decedent, and as a direct and proximate result of the failure of the defendant and its employees to warn decedent of danger known to them but unknown to him, to wit, the danger of grizzly bears in Yellowstone National Park, and particularly in the Old Faithful Subdistrict and Old Faithful Village area of Yellowstone National Park, Harry Eugene Walker's death was caused.

13. The decedent was not contributorily negligent, and did not directly or indirectly contribute to the cause of his own death.

14. Decedent was trained and experienced in dairying, and particularly in operating the family dairy in Alabama, and plaintiffs had a reasonable expectation that he would operate the family dairy farm with his father, and manage and operate the farm on his father's illness and retirement, and his death caused the family, and each member thereof, loss of support, care, comfort, advice, society, and nurture in the amount hereinafter found as damages.

15. The practice of this part of Alabama was for dairies to be run in family partnership, including parent and son, or sons, and the decedent and his father had an understanding and agreement to so operate the dairy farm owned by decedent's mother and father.

16. Decedent's heirs entitled to recover damages for the wrongful death of Harry Eugene Walker are his father, Wallace R. Walker, his mother, Jessie Louise Walker, and his younger sister, Jenny Lynn Walker, who at the time of his death, and at the time of trial, was living at home. I make no award to decedent's older sisters, Betty Simmons and Caroline Crowe, since they had left home and established their own families prior to his death.

17. The family is entitled to recover burial expenses, loss of support, and loss of care, comfort, advice, society, nurture, in the proportion suffered by each. I find that the total damages suffered by the family to be: $1,217.67 paid by the father for burial expenses; $61,200.00 for loss of support, and $25,000.00 for non-pecuniary losses, totalling $87,417.67, plus costs, allocable as follows:

a. To the father, Wallace R. Walker, the sum of two-fifths (⅖th) of $61,200.00, that is, the sum of $24,480.00, plus $1,217.67 burial, plus $10,000.00 non-pecuniary loss, for a total of $35,697.67;

b. To the mother, Jessie Louise Walker, the sum of two-fifths (⅖th) of $61,200.00, that is the sum of $24,480.00, plus $10,000.00 non-pecuniary loss, for a total of $34,480.00;

c. To the sister, Jenny Lynn Walker, the sum of one-fifth (⅕th) of $61,200.00, that is, the sum of $12,240.00, plus $5,000.00 non-pecuniary loss, for a total of $17,240.00.

18. The plaintiff, Dennis G. Martin, is a resident of the State of California, and of the Central District of California, and is the duly-appointed Administrator of the Estate of Harry Eugene Walker, Deceased, appointed by order of the Superior Court of the State of California for the County of Los Angeles, and the judgment should be paid to him, to receive and disburse the funds in order to carry out the terms of the findings and the judgment.

19. Any Conclusions of Law deemed to be a Finding of Fact are hereby incorporated in the foregoing Findings of Fact.

CONCLUSIONS OF LAW

1. Defendant United States of America, in its administration of the National Park Service in Yellowstone National Park, was negligent, and failed to exercise due care towards the decedent, Harry Eugene Walker, in each of the several respects hereinabove specifically set forth in the findings of fact.

2. The negligence of the defendant, United States of America, was the sole, direct, and proximate cause of the death of Harry Eugene Walker on the night of June 24–25, 1972.

3. The decedent Harry Eugene Walker was not contributorily negligent and did not directly or indirectly contribute to the cause of his death.

4. The defendant has failed to establish any affirmative defense to plaintiff's action for wrongful death.

5. Plaintiff should have judgment in the amount of damages fixed by the Court in the foregoing Findings of Fact, and for costs.

6. Any Findings of Fact deemed to be Conclusions of Law are hereby incorporated in the foregoing Conclusions of Law.

[United States District Court, Central District of California—Civil No. 72-3044-AAH]

MODIFIED JUDGMENT

Dennis G. Martin, as Administrator of the Estate of Harry Eugene Walker, Deceased, Plaintiff, vs. United States of America, Defendant.

Upon the Court's own motion, and the Defendant United States of America having on March 31, 1975, filed its objections to plaintiff's findings of fact, conclusions of law and judgment, one day within the two week time period after Plaintiff lodged his findings of fact and conclusions of law and order for judgment on March 18, 1975, all as ordered by the Court on February 24, 1975; and

The Court having inadvertently signed and entered its Judgment herein on March 26, 1975, prior to the receipt of Defendant's said objections; and

Good cause appearing therefor, the Court now makes, signs and orders entered its Modified Judgment, as follows:

The above-entitled action came on for trial before the Court, the Honorable A. Andrew Hauk, United States District Judge, sitting without a jury, pursuant to the Federal Tort Claims Act, 28 U.S.C. 1346, et seq., on January 9, 10, 13, 14, 15, 16 and 17, 1975, and February 18, 19, 20, 21, and 24, 1975, at Los Angeles, California, the plaintiff, Dennis G. Martin, duly appointed Administrator of the Estate of Harry Eugene Walker, Deceased, appearing in person and by his attorney, Stephen I. Zetterberg of Zetterberg & Zetterberg, of Claremont, California, and the defendant United States of America appearing by the United States Attorney for the Central District of California, William D. Keller, and Assistant United States Attorneys Frederick M. Brosio, Jr., Chief, Civil Division, and William B. Spivak, Jr., William B. Spivak, Jr. in person appearing for said defendant, and the Court having rendered its decision and having filed Modified Findings of Fact, Conclusions of Law, and Order for Judgment herein, now, pursuant to said Order for Judgment, it is hereby:

Ordered and adjudged, that the plaintiff, Dennis G. Martin, as Administrator of the Estate of Harry Eugene Walker, Deceased, have judgment against the defendant in the sum of $87,417.67, to be allocated to the survivors of Harry Eugene Walker, Decedent, as follows:

To Wallace W. Walker, father of the decedent, $35,697.67;

To Jessie Louise Walker, mother of the decedent, $34,480.00;

To Jenny Lynn Walker, sister of the decedent, who is over the age of 18 years, the sum of $17,240.00; and for the costs and disbursements of plaintiff in this action, to be hereinafter taxed, on notice, and hereinafter inserted by the Clerk of this Court, in the sum of $———.

ERDA'S FOOT DRAGGING ON SOLAR RESEARCH PROGRAM

Mr. HUMPHREY. Mr. President, the Energy Research and Development Administration, ERDA, is moving too slowly in funding solar energy research activities.

This foot dragging is of great concern because ERDA is the lead agency in our solar R. & D. program. In fiscal year 1975, it was appropriated almost 75 percent of all solar research funds. Our solar program goes the way ERDA goes, and ERDA is going slowly. For example, of its $38 million in fiscal year 1975 solar R. & D. funds, ERDA now predicts that by June 30, it will actually have spent only $9.3 million or 24 percent.

I do not need to emphasize the remarkably low nature of this figure. While it is unusual for an entire fiscal year's R. & D. appropriation to be completely spent within that year, it is quite common to spend a large portion.

Why is ERDA's solar R. & D. program moving so slowly? Why are solar research teams breaking up because R. & D. funds are only being dribbled out to them?

The answers rest directly with the administration more than with ERDA—and particularly with the President's Office of Management and Budget. ERDA has a staff now of about 50 persons—perhaps as little as one-third what its appropriation of $38 million justifies.

The staff may double this coming fiscal year. Yet, its budget may well more than triple.

In effect, OMB is holding ERDA's staff to inadequate levels—with a direct debilitating impact on our energy self-sufficiency program.

OMB's attitude toward solar R. & D. is perhaps best exemplified by its reaction to solar appropriation requests for fiscal year 1976. In November and December 1974, Federal agencies requested about $150 million in fiscal year 1976

solar research funds. OMB cut that request to $70 million in obligations—cut it by more than one-half. It now appears that Congress will authorize at least $140 million for fiscal year 1976.

Is OMB going to ignore this and hold ERDA staffing to a level consistent with its own designed funding level, or with that desired by Congress? Quite frankly, there is little reason to be optimistic—and great reason to mandate a larger staff in the upcoming ERDA appropriation legislation.

Lest anyone here forget the pressing urgency for rapid solar energy development, let me note the results of the recently released U.S. Geological Survey. They found our onshore and offshore domestic oil reserves may be actually only one-half the amount originally estimated to be present. Our natural gas reserves may be only one-third as large as estimated.

To become self-efficient in energy, we must rapidly develop cost-competitive solar energy devices for heating, cooling, crop drying, and electric generation as quickly as possible.

In addition to the inadequate rate at which solar R. & D. funds are being allocated, a recent GAO report raised three further questions about our solar program.

First, there are no formal safeguards against duplication by the various Federal agencies funding solar energy research:

Guidelines to avoid duplication in the solar R. & D. program have not been issued. This is a serious shortcoming of the executive branch's administration of the solar R. & D. program which should be corrected if we are to receive full return on our solar energy research dollar.

All major new Federal research programs must pass through a difficult period while new agencies and personnel adjust to new obligations and functions. This is particularly true when, as with the solar program, a number of agencies have research appropriations, including NASA, HUD, FEA, NSF, ERDA, USDA, DOT, DOD, Department of the Interior, and the U.S. Postal Service.

Absence of the coordination necessary to avoid duplication is not, however, a situation to be tolerated regardless of how new or how large a research effort is.

ERDA must immediately institute an ongoing review mechanism, perhaps built around the existing Interagency Panel for Terrestrial Application of Solar Energy, to prevent solar R. & D. duplication.

Second, a comprehensive certification or rating system for solar devices has not been established:

HUD, and ERDA are independently developing and supporting research on selective performance standards and certification programs for solar space-heating and cooling devices. This is simply inadequate.

Rapid public acceptance of solar devices vitally depends upon the capability of consumers to distinguish between efficient and ineffective solar devices. ERDA must both accelerate its solar device-rating research, and extend it to cover all types of commercial solar devices. The next year or two will see a proliferation of both good and bad solar devices for the home market. Consumers must be able to independently assess the quality and effectiveness of such devices or we risk dissatisfied consumers—which could needlessly delay the utilization of effective solar energy devices.

Third, established defense contractors are the major recipients of solar R. & D. grants made to private industry:

Among private solar R. & D. contractors, large defense contractors received almost three times the amount of grants made to small, high technology research firms. ERDA must make a specific effort to allocate a greater portion of research funds to small firms, lacking only the expertise to correctly file grant applications. We must not allow a "solar-industrial complex" to dominate private solar research. This is particularly true when such dominance by the large defense contractors is due only to long familiarity with Defense Department or AEC grant procedures.

ERDA should immediately establish a small-firm screening mechanism to assist promising firms compete for solar R. & D. research funds with established firms. Such screening would select-out unpromising research proposals by small firms. ERDA could then assist in preparation of grant applications on behalf of the remaining proposals.

I will introduce legislation later this summer to ameliorate these and other shortcomings of our solar energy program. This legislation will include provisions to:

First. Establish a solar device testing and rating mechanism for consumers;

Second. Prevent duplication in solar energy research;

Third. Stimulate participation by small firms in solar research;

Fourth. Establish fiscal incentives for the use of solar devices, including tax credits, and loans;

Fifth. Accelerate Government utilization of solar energy;

Sixth. Establish the concept of sunshine rights as an integral component of private property rights;

Seventh. Accelerate public education efforts on behalf of solar energy; and

Eighth. Prohibit discriminatorily excessive hook-up charges on solar devices by utilities.

SOLAR UTILIZATION NOW

Mr. FANNIN. Mr. President, in my continuing series on current utilization of solar energy, I have been sharing information with my colleagues on existing projects. Today, I would like to report the existence of a short course offered by Arizona State University on the very subject of my interest. Titled "Solar Utilization Now," this course is intended for educators, engineers, architects, design professionals and other individuals concerned with construction or the manufacture of building equipment. No previous knowledge of solar energy is necessary, but an academic level of Bachelor's degree is suitable in the fields of engineering, architecture or related disciplines. A representative from my Phoenix office, Mr. Dan Halacy, attended the most recent 1-week offering of this course in May.

As the course brochure states:

The field of solar applications is rapidly expanding.

Every day more people make the decision to switch to the sun. Arizona State University, like the University of Arizona and Northern Arizona University, is assisting, enthusiastically, in that transition. I ask unanimous consent to have printed in the RECORD information from the "Solar Utilization Now" short-course brochure, concerning the content and lecturing staff for this worthwhile program.

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

WHY THIS COURSE IS OFFERED

The sun is the basis of all life on earth. The implication of solar energy to human activity has been as long as human activity in such passive processes as the photosynthesis of foods and the harnessing of the wind. However, the long dream of applying solar energy more directly to the needs of conditioning human shelter is a 20th century phenomena. It has only begun.

Both the economics and the ethics of solar utilization are arenas of debate. However, both the present state of fossil fuel supplies and all projections for the future indicate the increasing viability of solar energy to condition buildings. There are already many locations in which solar energy is the only reasonable choice for heating and/or cooling. Interests in clean energy sources and belief in self-sufficiency have added to the practical criteria of solar use. Successive demonstration projects are adding practical experience to many theoretical studies. The field of solar applications is rapidly expanding.

This course, being offered now for the second time, brings together a rich mix of many specialists that includes some of the most prominent solar leaders and authorities. This short course is a unique offering that concentrates on solar building applications for a full week.

CONTENT

The program will present a comprehensive approach to solar energy utilization for the heating and cooling of buildings. The entire field will be surveyed with emphasis being placed on those processes and techniques which are most viable today. Because of the great variety of climatic conditions, interior requirements, architectural criteria and solar techniques, no single approach is universally appropriate. Therefore a variety of systems will be presented.

The course will provide:

Consolidated design considerations of the many aspects of solar radiation utilization, including siting, architectural, energy consumption and conservation criteria.

Technical data and references for immediate application of various solar energy components and systems.

Analysis of the experience in applying solar energy criteria to a variety of systems.

Bases for optimizing architectural, and heating, ventilation and cooling systems designs for energy conservation.

Realistic and comprehensive technical and economic analyses of the present and future potentials of solar applications.

PROCESS

There is a need in the field of solar applications for a comprehensive basis of arriving at building decisions. This requires the coordination of fundamental data sources with both laboratory and field experience. The effective use of solar energy will evolve as a

professional discipline only as design skills are integrated with reliable design criteria. This short course can serve the very useful purpose of disseminating basic and up-to-date information of the various areas of solar utilization in buildings.

LECTURING STAFF

Such a rapidly expanding area as solar energy applications requires a balance of input between the latest specialized information and the practical experience of field applications. All members of the resident solar team at Arizona State University were major participants in a collaborative study with TRW Systems of Los Angeles in an "Investigation of the Feasibility of the Solar Heating and Cooling of Buildings"—a Phase "O" contract in 1973–74 with the National Science Foundation. The ASU Solar Team has also been involved in a wide variety of solar related activities, including research, consultation, evaluation, lecturing, writing and testifying throughout the USA and abroad.

The visiting faculty of guests have been invited to represent broadly based experience in particular areas of specialization. Each has made a unique contribution to the field and is highly active in the developing front of solar utilization in buildings. Guests include some of the most distinguished leaders in solar energy.

ARMING FOR OPEC PRICE INCREASES

Mr. CHILES. Mr. President, there is no more important foreign influence on our domestic economy than the international price of oil set by the OPEC countries. Not only has this effect been amply demonstrated since the oil embargo a year and a half ago, but the OPEC price of oil continues to be a threatening cloud on the horizon.

Fortunately, the OPEC nations decided not to further increase the price of oil at the meeting just concluded in Gabon, but the OPEC nations will meet again in Vienna on September 24 to decide how much to increase the international price of oil on October 1. The OPEC countries are said to be willing to negotiate the size of the October 1 oil price increase with the industrialized world.

So the issue for the United States is how to approach negotiations with the OPEC nations. How we approach these negotiations is important not only to our foreign policy relations with OPEC but through these to our relations with the industrialized world and the developing countries and most importantly to our domestic economy as well.

A month ago I introduced with Senator BENTSEN and Senator INOUYE and Congressman FASCELL introduced in the House, Senate Concurrent Resolution 41, a concurrent resolution on United States-Latin American relations which in the economic sections outlined an approach to foreign economic policy issues which may be useful to us in negotiating with the OPEC nations. In fact, this was the intention of the resolution which was born out of a concern for the economic consequences for our Nation of actions by foreign governments affecting the price and supply of commodities and raw materials of vital importance to us.

What we advocate in this resolution is that the United States make clear its commitment to a negotiated approach to international economic issues as opposed to a unilateral, each-to-his-own kind of policy. We recognized certain legislative sanctions employed by the United States in cases of investment and trade disputes to be disruptive rather than helpful and recommended instead, both for bargaining purposes and ultimately as a means of retaliation if negotiations break down, that the United States try to limit trade disputes to trade policy actions and investment disputes to investment policy actions rather than allowing specific cases to poison our overall relations with other countries and entire regions.

What this means for negotiations with the OPEC oil producing countries is that we should take a hard look at our export policies toward OPEC to evaluate what leverage we have just as they have made a shrewd evaluation of their export policies toward us. Trade is not a one-way street. Trade weaves a web of mutual dependence and interconnection. The industrialized world may be heavily dependent on oil imports but the OPEC countries are dependent on the industrialized world for technology, equipment, and other things we produce. It is essential that we approach oil price negotiations with the OPEC nations with a clear understanding of the international economic leverage we have on their domestic economies. This is not a confrontationist strategy; this is simply a prudent appraisal of our own power.

In February of last year I introduced an amendment to the Export Administration Act which provided for the first time the legislative authority for the United States to be able to use export controls to limit the supply of U.S. goods to countries which are limiting the supply of their goods to us. With the help of Senator STEVENSON who is chairman of the International Finance Subcommittee of the Housing, Banking and Urban Affairs Committee, this new legislative authority was adopted. It reads as follows:

> It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on the export of materials from the United States.

Now we have the authority to use export controls, if necessary, in a retaliatory manner. Next we need to make an assessment of our exports to the OPEC countries to see what leverage we might have on the price of OPEC oil through the price and supply of our exports to them. Senator STONE and Senator MANSFIELD have introduced and I am cosponsoring S. 1989 which will require a thorough inventory of our economic relations with energy producing countries.

OPEC imports of our exports increased from $3.6 billion in 1973 to $6.7 billion in 1974, an increase of 85 percent. More than two-thirds of this $3.1 billion increase in exports to Iran, Venezuela and Saudi Arabia. So in terms of amounts of exports, it is with these countries that our influence presumably would be the greatest.

But we need to know much more than this. We need to know what products are involved, what the alternative sources of supply would be, what their end use is, what percentage of the country's imports they are and so on to really understand their strategic value within a bargaining situation.

But we have enough information now to know that our exports are valuable enough to make it difficult for an importing country to switch rapidly from the United States to another country as a source of supply. Rapidly increasing exports to the OPEC countries include construction machinery, cooling equipment, pumps, civilian aircraft, automotive products, chemicals and steel. These are technical goods which require some training to operate and once a country has made that kind of investment and its people are familiar with the operation and handling of these goods, it is not easy to simply switch sources of supply because you are switching the type of good you are importing. Technical people have to be retrained. Maintenance operations change. Importing procedures are different. It costs to make the change in this type of good.

So it looks to me as if our exports have some real strategic value in bargaining with OPEC over the price of oil. The OPEC countries are making the claim that a further increase in the price of oil is needed to offset the increase in prices of exports from industrialized countries brought on by inflation. This claim flies in the face of the fact that inflation in industrial countries is importantly affected by the international price of oil. It ignores the fact that the OPEC oil price has significant effects on our domestic economy.

As a means of putting pressure on the OPEC governments in considering a future oil price rise, I propose that we establish through legislation a means of raising the prices of our exports to the OPEC countries after October 1st by the same percentage that they increase the price of oil exports to us October 1st. This is the one way that I see we can use the bargaining leverage we have to put downward pressure on the international price of oil and send a message that we find OPEC price increases against our interests and that we will use our power to fight off future actions of the same kind.

Whereas it is clear that we need to take actions to conserve oil, we send the wrong message if we impose a $2 import tax because we say to OPEC that they did not raise their prices enough. We make it worse when we suggest that we might take the $2 import tax off if they raise the price significantly in the fall. By saying that, as Secretary Morton did recently, we are saying that we might be willing to let them have the $2 a barrel rather than adding it to U.S. Government revenues.

In the short run, this country needs to put a halt to the oil price rise. Oil price

increases now hurt us worst where we hurt most: higher inflation, lower growth and worse unemployment.

Mr. Michael K. Evans, president of Chase Econometrics Associates, was quoted as having said recently:

For every 1 percent increase in prices, we would expect an 0.5 percent decline in real growth (in the economy and) for every 0.5 percent decline in real growth we would expect the unemployment rate to rise about 0.15 percent or about 140,000 jobs.

This is intolerable and unacceptable. We cannot let OPEC increase again the price of oil which will increase the rate of inflation, lower the rate of growth and increase unemployment. We must get these economic problems resolved first and then take the bull by the horns when the economy is on its feet again and use the price of oil as a conservation measure. For now, an increase in the oil price is an action against the American economy. It is one thing to raise the price ourselves. It is another to allow OPEC to raise the price without opposing their actions in the name of our own interests.

The legislation I will introduce later this week will add a tax on income earned on exports to OPEC countries after October 1 equal to the percentage increase in the OPEC price of oil October 1. The effect of this tax will be to raise the price of our exports to OPEC by the same percentage as they raise the price of their oil exports to us. This will put us in a live bargaining posture with the OPEC countries. It puts the onus on them to exercise restraint in oil pricing. And it shows that we are not going to just roll over and play dead.

It is an even handed approach. It is not an embargo on exports which might cut us out of the market and hurt our companies. It is a price rise that they themselves will have brought on and that they themselves can well afford to pay. I am hopeful that it will not hurt U.S. exporting companies at all, either because it deters OPEC from an oil price increase or because they continue to buy an increasing amount of U.S. exports.

I would strongly recommend that the President in implementing this legislation seek the cooperation of the Europeans and Japanese in taking similar actions so that switching markets will be to no avail.

EXPORT CREDITS

Export credits obviously facilitate the purchasing of exports. It seems unnecessary to me that the U.S. Government through the Export Import Bank should be facilitating OPEC's financial capacity to purchase U.S. exports when the major growth in financial outflow from the United States is for payment to OPEC countries for oil.

I have found that over the last 30 years gross authorizations for Export Import Bank credits, guarantees and insurance to OPEC countries totaled $5.5 billion. Of this, $2.6 billion was export credits. The OPEC price rise began in October 1973. Export Import Bank credits to OPEC countries from July 1, 1973 to June 30, 1974 totaled $408 million or over 15 percent of total export credits during the 30-year period. [See tables.]

It just does not seem wise to me to increase export credits to a region at a time when it has increasing financial resources of its own that it has gotten at our expense. It should be just the other way around. We should consider restricting export credits to a country or region when it is taking economic actions that are damaging to our economy.

I found that the legal authority to restrict export credits, insurance or guarantees to countries taking such actions does not now exist.

I shall introduce legislation that will provide the President with the authority to restrict export credits, insurance or guarantees to any country that is limiting its exports or increasing its export prices to us if he determines that these actions are "causing a significant adverse impact on the rate of inflation, the employment rate or the rate of economic growth of the United States."

I have no doubt that another oil price increase in October by OPEC would qualify under this amendment and thereby permit the President to cut back on Export-Import Bank activities with OPEC nations. This authority would provide the United States with another source of leverage in the oil price bargaining currently going on and which will come to a head on October 1st.

These are strong measures but they are better than resorting to military force. We are not the initiating party but we are not without sufficient resolve to respond in kind. We need to be fully aware of what our economic leverage is. I think by these measures we lay out what some of that leverage is and how it might be used. In the past we have appeared to have no leverage at all. This is not the reality and OPEC should know that. We have been invited to the ball—so my legislation suggests that we not only attend but that we bring our own fiddler and call the tune.

I ask unanimous consent to have printed in the RECORD the amendment on export credits, the tables on credits of the Export-Import Bank, and the economic sections of Senate Concurrent Resolution 41.

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

A bill to amend the Export-Import Bank Act of 1945 to authorize the President to suspend credit for exports to certain countries

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(b) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(7) If the President of the United States determines that any foreign country is restricting exports to the United States or is maintaining increased prices for exports to the United States and thereby is causing a significant adverse impact on the rate of inflation, the employment rate, or the rate of economic growth of the United States, he may direct the Bank not to guarantee, insure, extend credit, or participate in any extension of credit, to finance or assist the purchase or lease of any product or service by, or for use in or sale or lease to such country during any period when that country has such restrictions or increased prices in effect."

EXPORT IMPORT BANK AND OPEC (1934–1974)

(Million $)

	Gross Authorizations EXIM Credits, Guarantees, Insurance	*Credits*
Venezuela	1,529	467
Ecuador	331	79
Saudi Arabia	162	75
Iran	1,835	1,132
Kuwait	198	50
Libya	19	0
Iraq	27	14
Nigeria	145	47
United Arab Emirates	27	1
Algeria	669	294
Qatar	5	0
Indonesia	538	404
	5,485	2,563

SOURCE.—Export Import Bank of the United States, *Cumulative Records.*

EXPORT IMPORT BANK AND OPEC, JULY 1, 1973–JUNE 30, 1974

[In million dollars]

	Credits
Venezuela	24
Ecuador	3
Saudi Arabia	0
Iran	287
Kuwait	0
Libya	0
Iraq	0
Nigeria	2
United Arab Emirates	0
Algeria	72
Qatar	0
Indonesia	42
	408

SOURCE.—Export Import Bank of the United States, *Cumulative Record.*

THE ECONOMIC SECTIONS OF S. CON. RES. 41 INTRODUCED IN THE SENATE ON MAY 15, 1975

ECONOMIC FLUCTUATIONS AND DISRUPTIONS

SEC. 4. (a) FINDINGS.—The Congress finds that—

(1) there is an overwhelming interest that all nations share in a stable and dynamic world economy in which each nation can look forward to the possibility of continuous improvement in the quality of life which would be facilitated by a fair and equitable world trading system, uniform standards governing access to supplies and markets, and reasonable and stable prices for commodities and terms of trade for both supplier and purchasing nations;

(2) policies on commodities are among the most critical issues in hemispheric and global economic relations today;

(3) it is in the interest of the United States to assure a well-functioning and stable price and supply system for commodities; and

(4) questions of reforming the rules of monetary, trade, energy, commodities, and investment relations are to a certain degree inter-related and successful adjustment of interests in the commodity system will have a favorable impact on negotiations in these other fields.

(b) POLICY.—It is the sense of the Congress that the United States should

(1) reaffirm its commitment to seek structural changes in the institutions and rules guiding world trade practices which will be conducive to increasing world trade and furthering the trade potential of this hemisphere and stabilizing the supply and price of commodity resources of vital importance to the economies of this hemisphere both as imports and exports;

(2) support the elimination of special regional preferential trading arrangements which have the effect of creating discrimina-

tory regional trade blocks and which are in violation of international agreements;

(3) seek expanded trade relations by strengthening the commitment of governments in the hemisphere and throughout the world to the General Agreement on Tariff and Trade and other international means of guiding trade policies toward a more open, equitable and nondiscriminatory world economy unhampered by embargoes, monopolistic pricing and other unilateral measures which may cause disruptions and drastic difficulties in the domestic economies of other nations; and

(4) the United States should seek to mitigate the difficulties to producer and consumer nations caused by commodity fluctuations seeking to negotiate trade issues in multilateral, bilateral or other groupings using commodity agreements, supply contract arrangements, or compensatory financing, as a means of advancing these negotiations;

(5) conduct a thorough review of commodity trade leading to recommendations of actions that can be taken in the near future of importance in Inter-American trade in order to effectuate the significant change in United States policy towards commodity trade recommended in this subsection and to demonstrate that new negotiated arrangements can work; and

(6) seek the establishment of international and regional mechanisms for the exchange of commodity supply and demand information to facilitate global progress in the development of means of dealing with commodity issues.

ECONOMIC SANCTIONS

SEC. 5. FINDINGS.—The Congress finds that—

(1) given the primacy in United States policy of a multilateral approach to international economic relations, it is nevertheless necessary that the United States have the policy instruments available to deal bilaterally with economic disputes which are not resolved by multilateral means. United States law must provide the authority to act in a reciprocal manner and to an equivalent degree when actions by other governments restrain supply or increase price in such a way as to markedly disrupt the national economy of the United States. In several areas of foreign economic policy, these authorities do not now exist.

(2) recent history has shown that punitive United States policies are not effective in contributing to the resolution of economic disputes and in many instances have simply stiffened the determination of foreign governments to maintain an uncompromising posture. This has been especially true in the case of economic sanctions which come into play when foreign governments expropriate without compensation property belonging to a United States company. Investment disputes have in many instances in recent years unnecessarily soured overall United States relations with particular countries, and in some cases, with entire regions as in Latin America. The transformation of an investment dispute into a political issue seems to have been stimulated in part by legislation requiring policy actions to be taken outside the domain of foreign investment policy as retaliation against expropriation by a foreign government.

(b) POLICY.—

(1) recognizing on the basis of past experience with investment disputes that these broader policy actions have proven ineffectual, it is the sense of the Congress that the authorities for United States policy responses to foreign government actions should be limited to the policy area of the dispute in question. United States actions in a trade dispute should be limited to trade policies, and United States actions in an investment dispute should be restricted to investment policy.

(2) It is the sense of the Congress that the legislation should be repealed that requires the United States to suspend bilateral assistance or vote against multilateral economic aid and deny access to the generalized system of tariff preferences to countries expropriating United States property without compensation. Instead, it would be more appropriate to use investment policies to respond to investment disputes.

(3) It is the sense of the Congress that every effort should be made to resolve trade disputes through negotiations, either multilaterally or by other means, and to avoid reaching the stage where legislative mechanisms come into play, but that in the event that these efforts do not resolve the dispute, the United States government should have the authority to use export controls and export credits as a means of fashioning an equivalent reciprocal response to embargoes and monopolistic pricing by foreign governments which are damaging to the United States economy as a whole. The purpose of these carefully specified authorities should be (1) to give the United States government the policy leverage to bargain effectively with the foreign government to resolve the dispute, (2) to limit the use of these policy instruments to actions by other governments which have a significant impact on rates of growth, employment and inflation in the United States economy, and (3) to maintain the bounds of the trade dispute to the trade policy area. Consistent with these propositions, it is appropriate that the section of the Trade Act of 1974 be modified that denies access to the generalized system of tariff preferences to member States or the Organization of Petroleum Exporting Countries which have not withheld supplies of petroleum from the United States.

(4) It is the sense of the Congress that each investment or trade dispute should be carefully reviewed and that specific recommendations should be made to the President concerning the particular United States government policy response to each dispute. Consultation should occur with appropriate Departments and Agencies of the United States and with the Congress. This process would permit the President to be highly selective in shaping United States policy and to tailor the United States response in both degree and kind to the particular character of the dispute in question.

(5) Recognizing the need to demonstrate true respect for the sovereignty of developing nations, it is the sense of the Congress that just as it is inappropriate to require the curtailment of economic assistance in cases of expropriation, it is generally inappropriate to deny or reduce economic assistance in cases of violations of human rights. This is unwise because such policies would perhaps deny aid to people whose needs are greater in conditions adverse to basic human rights. But at the same time, it is the sense of the Congress that consistent policy requires that United States economic development and military assistance not be increased when violations of human rights have been substantiated. For these purposes, United States policy should be guided by the findings and recommendations of the Inter-American Commission on Human Rights or the United Nations Commission on Human Rights. Nevertheless, in cases of extreme or repeated violations, the United States should review its military assistance credit and sales policies in light of these violations, given the possibility that arms can be used for repressive purposes, and perhaps also re-evaluate its overall policies with the country concerned.

BARRIERS TO FREE TRADE WITH JAPAN

Mr. FANNIN. Mr. President, the Congress recently demonstrated its intense interest in the subject of international trade by enacting the Trade Act of 1974. I am certain my colleagues share my concern for a continuation of interest in this important issue on the part of the Congress.

Some 90 nations have begun negotiations in Geneva, Switzerland, which look toward a restructuring of international trade relationships and objectives. The Congress has made it clear that it will continue to share in the policymaking process as that policy relates to the United States and its trading partners.

It is my belief that the United States must drive a hard bargain at the Geneva negotiations. We must face the reality that our willingness to have American businesses bruised by foreign tariff and nontariff barriers has lost us respect in many areas of the world. This Nation's singular economic strength, which it enjoyed immediately after World War II, has vanished. We no longer can afford to absorb the world's products into the United States without insisting that our industries be permitted to compete on an equal footing in the markets of other nations.

Mr. President, I am proud of our Nation's historical lack of import barriers. We have resisted many times the cries for protective barriers. Of course, there are exceptions to this general rule, but our basic contention has been to promote free trade among nations by example. Unfortunately, this often has been a one-way street frequented only by the United States while our trading partners have engaged in sophisticated and simplistic trade barrier mechanisms.

Today I bring to my colleagues' attention a trade matter which has been of particular concern to me during my years in the Senate. My reference is to Japan's discrimination against the American citrus industry which is a principal economic factor both in my home State of Arizona and also in California, Texas, and Florida.

Mr. President, there are 12,000 citrus fruit growers in Arizona and California who have a combined capital investment of $3 billion, a payroll of $120 million annually paid to 37,000 employees, and a $150 million yearly export level. The Federal Government has registered strong support for the citrus industry by spending approximately $1.7 billion in Federal funds for water projects which have made citrus producing areas fertile.

Certainly the U.S. citrus industry is substantial. All Americans have benefited from the availability of inexpensive fresh citrus fruit, the quality of which is unsurpassed anywhere in the world. Yet, there are countries which consistently discriminate against American citrus.

It is my belief that Japan discriminates more severely against American citrus than does any other nation or group of nations. Their discrimination is many faceted. First, Japan maintains illegal quotas on fresh oranges and orange and grapefruit juices. The International Trade Commission confirmed this in its report on trade barriers to the Committee on Finance. Japan's quota on lemons was eliminated in 1964. Increased exports of lemons to Japan during the succeeding decade is convincing proof of the

positive effect elimination of the quotas on other citrus products could have for American business. Exports of fresh lemons to Japan have increased from 37,600,000 pounds to 208,513,000 pounds during that period. Our trade negotiations must resolve this issue of quotas prior to negotiating other trade matters relating to citrus.

Second, Japan imposes excessive tariffs on the importation of fresh citrus. For example, Japan requires a tariff for fresh grapefruit of 20 percent ad valorem from June 1 through November 30, and 40 percent from December 1 through May 31. The United States, by contrast, has an ad valorem duty equivalent for fresh grapefruit of 8.5 percent for August 1 through September 30, 6.1 percent for October, and 7.8 percent for November 1 through July 31. There is no Japanese domestic production of grapefruits to protect. There is no doubt that the Japanese tariff on imported grapefruit should be reduced to at least 8.5 percent.

Third, Japan recently has engaged in the practice of rejecting American citrus due to the existence of traces of chemical fungicides. These fungicides are acceptable as effective in retarding spoilage by every nation other than Japan. Codex Alimontarius, the United Nations agency responsible for setting international standards on chemical food additives, also has approved use of these fungicides. American fresh citrus exporters strive to avoid the use of fungicides on fruit destined for Japan. However, regardless of how careful these exporters are, detectable traces remain which cause Japanese officials to reject the shipments. This rejection by Japanese of universally acceptable fungicides is a flagrant nontariff trade barrier.

Mr. President, this treatment of American citrus by the Japanese is typical of that nation's discrimination against American imports. Certainly other countries have erected similar trade barriers. The European Economic Community stands out as another major discriminator against imports from the United States.

It is my conviction that our negotiators must remain firm in their efforts to open the world's markets to American trade items as our Nation has allowed imports to compete in our domestic markets with few hindrances. I am certain that Special Trade Representative Dent and his two deputies, Messrs. Walker and Yeutter, are aware of this need to gain equitable treatment for American goods in foreign markets. Their efforts toward this end deserve the full support of the Congress.

AN ALTERNATIVE ENERGY PLAN

Mr. MATHIAS. Mr. President, I recently introduced S. 897 and S. 1950 and was consequently pleased by the favorable response that these measures have evoked from the Baltimore Evening Sun in an editorial of June 19, 1975.

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

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

[From the Evening Sun, June 19, 1975]

OIL ALTERNATIVES

The House is making a shambles of the supposedly comprehensive energy bill. Gone is a tough proposal to damp down demand for gasoline by imposing a rising tax on consumption beyond certain levels. So is the basic surtax of 3 cents that was to finance development of alternative energy sources. The proposed taxes on inefficient, low-mileage gas-gulping big cars has been watered down significantly. Import quotas designed to cut American dependence on foreign oil have been revised to make them looser in the years ahead rather than tighter, as the Ways and Means Committee bill had provided. If this toothless, ineffective measure is to be the House's "alternative" to the crude presidential import tax on all foreign oil, where is the country to look for some sensible leadership?

The immediate answer is the Senate. Whether the senators will have more political courage than the representatives is not at all certain. But there is some hope in two bills introduced by Senator Mathias. The first, aimed at reducing consumption, incorporates the general principles of the original Ways and Means Committee bill in imposing rising taxes on gasoline consumption and on less efficient cars plus credits for energy conservation efforts in business and residential consumption. The second, introduced this week, is directed to reducing dependence upon imports.

In broad principle it follows the Ford plan of using taxes on foreign oil rather than quotas to discourage imports. But it is far more selective than the flat $1-, $2- and $3-per barrel tax on all foreign oil the President is putting into effect. Imported motor fuels such as gasoline would be subject to the stiffest tax of $4 a barrel. The middle distillates, including oil for home heating, would be subject to a tariff only half as high. Moreover there would be licenses which would permit importation of certain percentages of a 1972 base without payment of the tariffs, thus reducing the inflationary impact which the country is already feeling from the across-the-board Ford tariffs.

It is too early to underwrite the precise details of the Mathias proposals on imports; the probable impact in various areas requires a good deal of further examination. But both the consumption and import bills are solidly based on two principles—(1) Cut consumption by rising taxes on excessive use of oil products and (2) curb import dependence by selective taxation of foreign products. It's a constructive start, at last.

EUGENE C. PULLIAM

Mr. FANNIN. Mr. President, on Monday one of the greats of American journalism died. Eugene C. Pulliam was more than a great journalist, however. He was a very kind and generous man who used his wealth to help people and improve communities.

Mr. President, yesterday the Phoenix Gazette ran a very brief editorial pointing out that Mr. Pulliam cared deeply about people, and especially those who worked for him. In today's Arizona Republic was an article by the paper's editor, Fritz Marquardt, recounting the magnificent human qualities of publisher Gene Pulliam. I ask unanimous consent to have both of these articles printed in the RECORD.

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

[From the Phoenix Gazette, June 24, 1975]

EUGENE C. PULLIAM

Suddenly, a great emptiness is felt throughout Phoenix Newspapers.

Our publisher, Eugene C. Pulliam, is dead at the age of 86.

One moment he was with us, his incisive mind and dedicated soul taking keen and active interest in the affairs of the community, the nation, the world.

The next moment he was gone, the spirit of a newspaperman for 80 enterprising years finally at rest.

Gene Pulliam will be eulogized in terms of greatness, as an American patriot, as a champion of individual freedom, as a vigorous fighter of corruption and bureaucratic despotism, as a giant of journalism. That is proper enough, for he is indeed among the greats of this century.

But he will be remembered among his family and friends for the more personal characteristics of his greatness: for his loyalty, for his kindness, for his sense of fairness, for his generosity, for his understanding of people.

His employees, from the oldest to the youngest, from the highest to the lowest, have been made to feel a real part of "his family." When Mr. Pulliam spoke of "the Republic and Gazette family," as he did last April 27 at Family Day at the Lazy R & G Ranch, he meant just that. Many an employee with a personal problem was quietly helped by him.

Mr. Pulliam's distinguished career in journalism, his contributions as a citizen and as a friend of Presidents and governors and other leaders, his harvest of honors, all are set forth in his obituary.

It may take some time, however, for Phoenix and Arizona to fully appreciate the contributions he has made to the growth and development of this community and state. One of his last crusades was to see that every effort be bent to get a National Solar Energy Research Institute located in Arizona.

Gene Pulliam's legacy is a commitment to make the Valley the best and most beautiful place to live in the world.

Carrying on that commitment with something like his energy will help fill the emptiness that is felt here at his parting.

[From the Arizona Republic, June 25, 1975]

EUGENE C. PULLIAM: LAST OF A GREAT BREED OF PUBLISHERS

(By Frederic S. Marquardt)

TOKYO.—Gene Pulliam was probably the last of a great breed of publishers. He was in a category that believed all newspapers should be run by newsmen, not by lawyers or bankers or accountants.

There was more of a personal touch in a publisher's attitude toward his employees back before the computers took over and newspaper stock was hawked on Wall Street. Pulliam and the rest of them came up from the news room.

"I was a damn good police reporter," he used to say, recalling the days when he worked for the Kansas City Star. If it hadn't been for the bigger challenges of running his own papers, he probably would have continued covering crime and politics.

In the end, it was his back, not his legs, that gave out. Many years ago, when spinal fusions were new and radical, he had two vertebrae fused. But when he called me on the phone, or sent me a memo, he sounded like he did when I went to work for him 28 years ago.

That was shortly after he acquired The

Republic and The Phoenix Gazette. I was on the Chicago Sun-Times and wanted to get out of the cold winters.

I wrote Pulliam a letter, asking if there were any jobs in Phoenix, and he sent word for me to call him in Indianapolis. That's where I thought I had blown it. I went to a pay station in a drug store, since no one ever made a personal call from the Sun-Times news room unless he wanted every copy boy to know what he said.

After getting Pulliam on the phone, I found I didn't have enough change to pay for the call. Gene heard me ask for time to get some change and told the operator to make the call collect. That's probably one of the few times when an applicant for a job made his prospective employer pay for the phone call.

Gene always wanted to meet the wife of anyone he was considering hiring in an executive capacity. So he asked me to bring my wife to the Drake Hotel in Chicago. This time I was afraid Alice had blown it. She had written a poem about how wonderful it would be if Pulliam hired me and she could live in Phoenix.

As my friends know, I loved Alice dearly and admired her sterling qualities. But writing poetry was not among her many gifts. So I carefully left the poem in our apartment when we went to the hotel. After I had been hired and we were safely in Phoenix, I showed the poem to Gene.

"Hell," he said, "if I had seen that earlier I would have hired her instead of you."

It was people, not money, that interested Pulliam.

"If money was my objective," he used to say, "I would have sold bonds, even a small commission adds up when it is collected on hundreds of millions of dollars worth of municipal and state bonds."

He did make money, of course, but it was mainly because he wanted to assure the financial independence of his newspapers.

Gene never used his greater circulation to take comic strips or syndicated material away from smaller competitors, although the syndicate salesmen offered to cancel contracts to his advantage.

Once, when the Indianapolis Times was at the end of its financial tether, Pulliam asked his lawyers if he could support the Times in order to keep large-scale competition alive. They told him such action would put him in jeopardy of antitrust suits.

Gene knew poverty in his youth, and he understood the need of keeping out of debt, but he never was chintzy. Once he heard a manager of The Republic had given a retiring printer a penny a day for each year he had worked for the paper. The total was about $150, a respectable retirement gift by any standards.

But Pulliam was incensed at the idea of valuing anyone's work at one cent a day. He ordered the cashier to draw a check for $1,000 and personally delivered it to the printer.

Aside from his relatives, Gene Pulliam was interested mainly in two groups of people—his employes and children of all ages.

For his employes in Phoenix he established the Lazy R and G Ranch, a 40-acre spread with an Olympic swimming pool, a baseball diamond, a railroad, a club-house and a covered dance floor.

There are no dues, and every employe is privileged to take his family to the ranch. It is run by a committee of the employes.

Gene contributed to every cause that promised to make the children of Phoenix happier. He was largely instrumental in getting the Phoenix Zoo started, and for years he paid its deficits after the original sponsor dropped out.

When he heard how many children visited the Heard Museum each year, he matched the income the museum receives from grants made by the Heards.

His gifts to hospitals, community funds, symphony societies, youth organizations, were as substantial as they were unpublicized.

But Gene most enjoyed giving direct help to someone whose child wanted to go to college, or whose wife needed medical attention, or whose father had died. No one will ever total up how many there were in these categories, but I was among them.

SUN CITY: NO. 1 HAVEN FOR RETIREES

Mr. FANNIN. Mr. President, one of the most dynamic communities in America is a retirement community—Sun City, Ariz. Although this is not an incorporated city, these 35,000 people have a tremendous feeling of being a community. They have the friendly, neighborly spirit, and the loyalty, which has been lost in too many of our cities.

It is always a treat for me to visit Sun City because these people enjoy life fully, and they have an intense interest in what is happening in the world and in our own country.

Mr. President, the current issue of the National Observer has an article entitled, "Sun City: No. 1 Haven for Retirees." 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:

SUN CITY: NO. 1 HAVEN FOR RETIREES

(By Edwin A. Roberts, Jr.)

In the 1950s there was nothing here but thousands of acres of cotton. Then, 15 years ago, the first house was built in what is now Sun City, the nation's biggest and best-known retirement community. The central question posed by the Sun City idea was this: Can older people live satisfying lives in a recreation-oriented city inhabited exclusively by older people?

The answer appears to be "yes"—with a muted "but" attached.

Some 35,000 retired people now live in Sun City, an unincorporated community near Phoenix. They're served by 300 stores, 30 financial institutions, 3 brokerage houses, 70 physicians, 9 dentists, a $6 million hospital, 9 golf courses, 20 restaurants, 3 swanky dining clubs, 5 immense and extravagantly equipped recreation centers, a 7,500-seat amphitheater, a 4,000-seat baseball stadium a symphony orchestra, 26 religious congregations, 5 Lions clubs, 3 Kiwanis clubs, 2 Rotary clubs—plus scores of recreational clubs ranging from the Cactus Bridge Club to the Cycle Mates.

A SENSE OF MOTION

There are also six liquor stores and two branches of Alcoholics Anonymous.

Sun City's houses and their gray-haired occupants both seem well maintained. Suntanned residents bustle about in cars, in their 3,000 golf carts, on bicycles, on adult tricycles, and—often briskly—on foot. There's a sense of motion here, and of purposefulness.

Most residents are Sun City boosters. They praise the Del E. Webb Development Co., which built the community, and the life-style the Webb organization built into the community. So they're vexed when critics say Sun Citians have withdrawn their talents from society and should feel guilty about spending their retirement years at play.

Residents say such criticism doesn't take a retired person's options into account. They note that old age is a time of physical slowing down, of increased vulnerability to illness and accident, of forced withdrawal from a life-time's career, of sadness as friends pass away one by one. Moreover, they add, a person's choices at retirement generally are these: Stay put; move in with a son or daughter; move to an age-integrated community; or move to a town designed expressly for older people.

"As far as I'm concerned," says Alicia Jackson as she shops the meat counter at Safeway, "the final years are a very special time of life. Nobody can understand how you feel at retirement except people who have been through it. Younger people don't like old people—that's plain enough. There's no sense staying in the old home town, especially if it's in a cold climate. Cold is hard on old bones. Live with my children? I'd rather die. Move someplace where it's warmer but you still feel out of everything because you're old? Who wants that? No, the best answer is a place like Sun City—if you have the money to afford it."

SALT, PEPPER, AND AT&T

Indeed, it does take money to live here. Most residents wound up their working years with high-middle and upper-bracket incomes. Whereas a dozen years ago you could buy a new two-bedroom, one-bath house here for less than $10,000, today houses and apartments cost $33,000 to $75,000. A house with a swimming pool and other extras costs up to $100,000.

On the bright side, dwellings can be purchased with low down payments and 30-year mortgages—no matter what the buyer's age. "The banks aren't insuring lives, after all," says Webb saleswoman Carol Hyland. "And they've got that property to back the loan."

What exactly is it like to live in Sun City, whose name to many people suggests only shuffleboard and sunny monotony for obsolete men and women?

Spencer Moore is a retired utility company executive from New Jersey who looks younger than his 70 years. As he sits in the Lake Club's handsomely appointed dining room, a meticulous waiter places a copy of an hourly stock-market report between the salt and pepper.

"That stock-market report is provided as an advertising device by a local broker," says Moore. "To begin with, Del Webb, who died a few years ago, did everything here to dignify the human spirit. We moved to Sun City in 1969. We had visited the Southwest many times before and we liked the desert. We could see that Florida—like the Fort Lauderdale-Miami area—had become engulfed with people; high-rise condominiums are all over the place. Also, Florida has high humidity and a lot of bugs. So we favored Arizona as a warm-weather place to retire."

What about all the friends you left behind in New Jersey?

NO LACK OF FRIENDS

"We have more friends here than we ever had in New Jersey. Retired people don't want to be oppressed by loneliness, and here they don't have to be. When a couple moves to Sun City, that couple is anxious to make friends, to be outgoing and congenial. When you move here all you have to do is go to a cocktail party and you meet 20 people. And you're off."

Moore's days are busy with much more than play. He is a past president of Recreation Centers of Sun City, Inc. The nonprofit organization runs the $7 million recreation centers that are jointly owned by all Sun Citians. The Webb organization included the centers' cost in the prices of homes, then turned the facilities over to the residents. For $30 a year they can use the centers' indoor and outdoor swimming pools, hobby craft rooms, bowling alleys, and billiards rooms.

Moore is currently vice president of the board of directors of the Walter O. Boswell

Hospital. It's named for its prime benefactor, who owned the cotton fields upon which Sun City was built. (The hospital, soon to be expanded, has an intensive-care area for electronically monitoring heart patients.)

CONSIDERATE OF WIDOWS

"One important difference in relationships here," says Moore, "is that the old competitive anxieties don't exist. One of my closest friends is the former president of a Pennsylvania electric company. We can talk now without feeling any competitive pressure."

Moore adds that Sun Citians are particularly considerate of residents who have lost a spouse. "Widows and widowers are invited to parties and get-togethers, because people of our age are acutely aware of each other's feelings. I think people try harder here to be good neighbors. There are frequent second marriages, because a man and woman who have lost their first spouses seek out each other's companionship. They tend to marry not for sex but for companionship and economic reasons."

The stories one hears about the healthfulness of Sun City's desert climate are, well, dramatic. One wonders why the place needs 70 doctors. Or one doctor.

"There's a man here," declares Moore, "who, when he first came, was bent over 90 degrees with acute arthritis. Today he walks around perfectly straight. Another man arrived in Sun City with a heart that could barely sustain life. He drove from Florida 100 miles a day. It took him a month to get here. Today he says he feels like a new man and thanks God he came to Sun City. Of course there are other people whom the Arizona climate doesn't help."

But not everyone is content with life here, and a few people move away each year—usually back to where they came from. A man at the Grand Center coin laundry looks up from his sorting to say: "We're leaving for good in a week. Can't stand this place in the summer; gets hot as hell—120 degrees. And the wife misses the grandchildren. I don't miss them, but she does, and I can't stand her moping around all the time and getting teary-eyed every night."

Others don't mind the hot summers because of the low (8 per cent) humidity and because every building is air conditioned. But there's no doubt the desert sun can be oppressive in July and August. About a third of the residents spend those months elsewhere. Many go to the high country of northern Arizona.

The difficulty some people find in moving far away from children and grandchildren seems to trouble them more than summer heat. This is especially true if the offspring still reside in the parents' home town. Air travel for back-home visiting is expensive, and, for those getting on in years, motor travel is tiring.

"But again," says one Sun Citian, "you must remember how mobile society is today. The children of retirees are likely to move from place to place anyway as the men change jobs or are transferred. My four children grew up on Long Island, but now they all live in widely separated cities. There's no way I could live near all of them."

Beyond that, many Sun Citians say, in effect, that they have paid their dues. They have worked hard for 40 or more years and made uncounted sacrifices for their children. Their remarks suggest that during the final years of life they want to live a little for themselves.

But this doesn't mean they live selfishly, they add. Thousands regularly engage in volunteer activities. Some 200 volunteers work at the hospital, going on duty as early as 6 a.m. Others deliver "meals on wheels." Others work through 14 men's service clubs to assist needy people in Sun City and throughout much of Arizona.

And there are needy people in Sun City. Most were among the first residents to move here in the early 1960s. They bought their little houses for under $10,000 and settled back to enjoy their retirement years on pensions and Social Security. But inflation has turned many of these once-self-sufficient folk into welfare cases.

Churches are crowded on Sunday morning, because, as one resident says, "Maybe we've begun to worry." The United Church, a multidenominational congregation, has a large concrete patio inscribed with a huge map of the United States. After services, the people gather on the map, each standing on his or her home state. Trite? Well, it helps get people together—and that's its purpose. And Sun City's.

AD HOC SUBCOMMITTEES OF THE COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES

Mr. MOSS. Mr. President, I wish to announce to the Senate the formation of two subcommittees of the Committee on Aeronautical and Space Sciences. These subcommittees will be ad hoc and will be:

SUBCOMMITTEE ON AEROSPACE TECHNOLOGY AND NATIONAL NEEDS

Members:

Wendell H. Ford, Chairman, John C. Stennis, Howard W. Cannon, Paul Laxalt, Ranking Minority Member, Jake Garn.

Ex Officio Members: Frank E. Moss, Barry Goldwater.

Counsel: James T. Bruce.

Jurisdiction:

There shall be referred to the subcommittee all proposed legislation and matters serving to identify and review those national needs in the foreseeable future to which aerospace science and technology could make a substantial contribution, either directly or indirectly; to specify the science and/or technology which could so contribute; to assess existing or modified mechanism for assuring that such contributions are in fact made in a timely, efficient and effective manner; and to submit to the full Committee such legislative or other recommendations as are deemed appropriate.

SUBCOMMITTEE ON THE UPPER ATMOSPHERE

Members:

Dale Bumpers, Chairman, Stuart Symington, Pete V. Domenici, Ranking Minority Member.

Ex Officio Members: Frank E. Moss, Barry Goldwater.

Counsel: James J. Gehrig.

Jurisdiction:

There shall be referred to the subcommittee all proposed legislation and other matters relating primarily to the upper atmosphere as set out at Title IV of the National Aeronautics and Space Act. Further, the subcommittee shall have jurisdiction to survey and review and to prepare studies and reports upon all activities dealing with the upper atmosphere of all agencies of the United States Government.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

EMERGENCY HOMEOWNERS RELIEF ACT

Mr. ROBERT C. BYRD. Mr. President, I assume that the two Senators would like to proceed to call up H.R. 5398 at this time. I, therefore, yield for that purpose.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5398) to authorize temporary assistance to help defray mortgage payments on homes owned by persons who are temporarily unemployed or underemployed as the result of adverse economic conditions.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the bill.

Mr. PROXMIRE. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an amendment in the nature of a substitute, to strike out all after the enacting clause and insert the following:

Short title, section 1.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. PROXMIRE's amendment in the nature of a substitute is as follows:

Intended to be proposed by Mr. PROXMIRE for himself, BROOKE, SPARKMAN, and TOWER to H.R. 5398, an Act to authorize temporary assistance to help defray mortgage payments on homes owned by persons who are temporarily unemployed or underemployed as the result of adverse economic conditions.

Strike out all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. That this Act may be cited as the "Emergency Housing Act of 1975".

TITLE I—EMERGENCY MORTGAGE RELIEF

SHORT TITLE

SEC. 101. This title may be cited as the "Emergency Homeowners' Relief Act".

FINDINGS AND PURPOSE

SEC. 102. (a) The Congress find that—

(1) the Nation is in a severe recession and that the sharp downturn in economic activity has driven large numbers of workers into unemployment and has reduced the incomes of many others;

(2) as a result of these adverse economic conditions the capacity of many homeowners to continue to make mortgage payments has deteriorated and may further deteriorate in the months ahead, leading to the possibility of widespread mortgage foreclosures and distress sales of homes; and

(3) many of these homeowners could retain their times with temporary financial assistance until economic conditions improve.

(b) It is the purpose of this title to provide a standby authority which will prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income through a program of emergency loans and advances and emergency mortgage relief payments to homeowners to defray mortgage expenses.

MORTGAGES ELIGIBLE FOR ASSISTANCE

SEC. 103. No assistance shall be extended with respect to any mortgage under this title unless—

(1) the holder of the mortgage has indi-

cated to the mortgagor its intention to foreclose;

(2) the mortgagor and holders of the mortgage have indicated in writing to the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") and to any agency or department of the Federal Government responsible for the regulation of the holder that circumstances (such as the volume of delinquent loans in its portfolio) make it probable that there will be a foreclosure and that the mortgagor is in need of emergency mortgage relief as authorized by this title, except that such statement by the holder of the mortgage may be waived by the Secretary if in his judgment such waiver would further the purposes of this title;

(3) payments under the mortgage have been delinquent for at least three months;

(4) the mortgagor has incurred a substantial reduction in income as a result of involuntary unemployment or underemployment due to adverse economic conditions and is financially unable to make full mortgage payments;

(5) there is a reasonable prospect that the mortgagor will be able to make the adjustments necessary for a full resumption of mortgage payments; and

(6) the mortgaged property is the principal residence of the mortgagor.

LIMITS OF ASSISTANCE

SEC. 104. (a) Assistance under this title with respect to a mortgage which meets the requirements of section 103 may be provided in the form of emergency mortgage relief loans and advances of credit insured pursuant to section 105 or in the form of emergency mortgage relief payments made by the Secretary pursuant to section 106.

(b) Assistance under this title on behalf of a homeowner may be made available in an amount up to the amount of the principal, interest, taxes, ground rents, hazard insurance, and mortgage insurance premiums due under the homeowner's mortgage, but such assistance shall not exceed the lesser of $250 per month or the amount determined to be reasonably necessary to supplement such amount as the homeowner is capable of contributing toward such mortgage payment.

(c) Monthly payments may be provided under this title either with the proceeds of an insured loan or advance of credit or with emergency mortgage relief payments for up to twelve months, and, in accordance with criteria prescribed by the Secretary, such monthly payments may be extended once for up to twelve additional months. A mortgagor receiving the benefit of mortgage relief assistance pursuant to this title shall be required, in accordance with criteria prescribed by the Secretary, to report any increase in income which will permit a reduction or termination of such assistance during this period.

(d) Emergency loans or advances of credit made and insured under section 105, and emergency mortgage relief payments made under section 106, shall be repayable by the homeowner upon such terms and conditions as the Secretary shall prescribe, except that interest on a loan or advance of credit insured under section 105 or emergency mortgage relief payments made under section 106 shall not be charged at a rate which exceeds the maximum interest rate applicable with respect to mortgages insured pursuant to section 203(b) of the National Housing Act.

(e) The Secretary may provide for the deferral of the commencement of the repayment of a loan or advance insured under section 105 or emergency mortgage relief payments made under section 106 until one year following the date of the last disbursement of the proceeds of the loan or advance or payments or for such longer period as the Secretary determines would further the purpose of this title. The Secretary shall by regulation require such security for the repayment of insured loans or advances of credit or emergency mortgage relief payments as he deems appropriate and may require that such repayment be secured by a lien on the mortgaged property.

EMERGENCY MORTGAGE RELIEF LOANS AND ADVANCES

SEC. 105. (a) The Secretary is authorized, upon such terms and conditions as the Secretary may prescribe, to insure banks, trust companies, finance companies, mortgage companies, savings and loan associations, insurance companies, credit unions, and such other financial institutions, which the Secretary finds to be qualified by experience and facilities and approves as eligible for insurance, against losses which they may sustain as a result of emergency loans or advances of credit made in accordance with the provisions of section 104 and this section with respect to mortgages eligible for assistance under this title.

(b) In no case shall the insurance granted by the Secretary under this section to any financial institution on loans and advances made by such financial institution for the purposes of this title exceed 40 per centum of the total amount of such loans and advances made by the institution, except that, with respect to any individual loan or advance of credit, the amount of any claim for loss on such individual loan or advance of credit paid by the Secretary under the provision of this section shall not exceed 90 per centum of such loss.

(c) The Secretary is authorized to fix a premium charge or charges for the insurance granted under this section, but in the case of any loan or advance of credit, such charge or charges shall not exceed an amount equivalent to one-half of 1 per centum per annum of the principal obligation of such loan or advance of credit outstanding at any time.

(d) The Secretary is authorized and empowered to waive compliance with any rule or regulation prescribed by the Secretary for the purposes of this section if, in the Secretary's judgment, the enforcement of such rule or regulation would impose an injustice upon an insured lending institution which has substantially complied with such regulations in good faith. Any payment for loss made to an insured financial institution under this section shall be final and incontestable after two years from the date the claim was certified for payment by the Secretary, in the absence of fraud or misrepresentation on the part of such institution unless a demand for repurchase of the obligation shall have been made on behalf of the United States prior to the expiration of such two-year period. The Secretary is authorized to transfer to any financial institution approved for insurance under this title any insurance in connection with any loan which may be sold to it by another insured financial institution.

(e) The aggregate amount of loans and advances insured under this section shall not exceed $1,500,000 at any one time.

EMERGENCY MORTGAGE RELIEF PAYMENTS

SEC. 106. (a) In the case of any mortgagee which would otherwise be eligible to participate in the program authorized under section 105 but does not qualify for an advance or advances as authorized by section 113 of this title or under section 10, 10b, or 11 of the Federal Home Loan Bank Act or otherwise elects not to participate in the program authorized under section 105, the Secretary is authorized to make repayable emergency mortgage relief payments directly to such mortgagee on behalf of homeowners whose mortgages are held by such financial institution and who are delinquent in their mortgage payments.

(b) Emergency mortgage relief payments shall be made under this section only with respect to a mortgage which meets the requirements of section 103 and only on such terms and conditions as the Secretary may prescribe, subject to the provisions of section 104.

(c) The Secretary may make such delegations and accept such certifications with respect to the processing of mortgage relief payments provided under this section as he deems appropriate to facilitate the prompt and efficient implementation of the assistance authorized under this section.

EMERGENCY HOMEOWNERS' RELIEF FUND

SEC. 107. (a) (1) To carry out the purposes of this title, the Secretary is authorized to establish in the Treasury of the United States an Emergency Homeowners' Relief Fund (hereinafter in this title referred to as the "fund") which shall be available to the Secretary without fiscal year limitation—

(A) for making payments in connection with defaulted loans or advances of credit insured under section 105 of this title;

(B) for making emergency mortgage relief payments under section 106 of this title;

(C) to pay such administrative expenses (or portion of such expenses) of carrying out the provisions of this title as the Secretary may deem necessary.

(2) The fund shall be credited with—

(A) all amounts received by the Secretary as premium charges for insurance or as repayment for emergency mortgage relief payments under this title and all receipts, earnings, collections, or proceeds derived from any claim or other assets acquired by the Secretary under this Act; and

(B) such amounts as may be appropriated for the purposes of this title.

AUTHORITY OF THE SECRETARY

SEC. 108. (a) The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this title.

(b) Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real or other property by the United States, the Secretary shall have power, for the protection of the interest of the fund authorized under this title, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by the Secretary as a result of recoveries under security, subrogation, or other rights.

(c) In the performance of, with respect to, the functions, powers, and duties vested in the Secretary by this title, the Secretary shall—

(1) have the power, notwithstanding any other provision of law, whether before or after default, to provide by contract or otherwise for the extinguishment upon default of any redemption, equitable, legal, or other right, title in any mortgage, deed, trust, or other instrument held by or held on behalf of the Secretary under the provisions of this title; and

(2) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which assistance has been provided pursuant to this title. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding any other provision of law, the Secretary also shall have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation,

or other rights obtained by him in administering this title.

AUTHORIZATION AND EXPIRATION DATE

SEC. 109. (a) There are authorized to be appropriated for purposes of this title such sums as may be necessary, except that the funds authorized to be appropriated for section 106 shall not exceed $500,000,000. Any amounts so appropriated shall remain available until expended.

(b) No loans or advance of credit shall be insured and no emergency mortgage relief payments made under this title after June 30, 1976 except if such loan or advance or such payments are made with respect to a mortgagor receiving the benefit of a loan or advance insured, or emergency mortgage relief payments made, under this title on such date.

NOTIFICATION

SEC. 110. (a) Until one year from the date of enactment of this title, each Federal supervisory agency with respect to financial institutions subject to its jurisdiction, and the Secretary, with respect to other approved mortgagees, shall (1) take appropriate action, not inconsistent with laws relating to the safety or soundness of such institutions or mortgagee, as the case may be, to waive or relax limitations pertaining to the operations of such institutions or mortgagees with respect to mortgage delinquencies in order to cause or encourage forebearance in residental mortgage loan foreclosures, and (2) request each such institution or mortgagee to notify that Federal supervisory agency, the Secretary, and the mortgagor, at least thirty days prior to instituting foreclosure proceedings in connection with any mortgage loan. As used in this title the term 'Federal supervisory agency" means the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration.

REPORTS

SEC. 111. Within sixty days after enactment of this title and within each sixty-day period thereafter prior to July 1, 1976, the Secretary shall make a report to the Congress on (1) the current rate of delinquencies and foreclosures in the housing market areas of the country which should be of immediate concern if the purposes of this title is to be achieved; (2) the extent of, and prospect for continuance of, voluntary forebearance by mortgages in such housing market areas; (3) actions being taken by governmental agencies to encourage forebearance by mortgagees in such housing market areas; (4) actions taken and actions likely to be taken with respect to making assistance under this title available to alleviate hardships resulting from any serious rates of delinquencies and foreclosures; and (5) the current default status and projected default trends with respect to mortgages covering multifamily properties with special attention to mortgages insured under the various provisions of the National Housing Act and with recommendations on how such defaults and prospective defaults may be cured or avoided in a manner which, while giving weight to the financial interests of the United States, takes into full consideration the urgent needs of the many low- and moderate-income families that currently occupy such multifamily properties.

NONAPPLICABILITY OF OTHER LAWS

SEC. 112. Notwithstanding any provision of law which limits the nature, amount, term, form, or rate of interest, or the nature, amount, or form of security of loans or advances of credit, loans, or advances, of credit may be made in accordance with the provisions of this title without regard to such provision of law.

FEDERAL DEPOSIT INSURANCE CORPORATION ADVANCES

SEC. 113. Notwithstanding any other provision of law, the Federal Deposit Insurance Corporation is authorized, upon such terms and conditions as the Corporation may prescribe, to make such advances to any insured bank as the Corporation determines may be necessary or appropriate to facilitate participation by such bank in the program authorized by this title. For the purpose of obtaining such funds as it determines are necessary for such advances, the Corporation may borrow from the Treasury as authorized in section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824; 64 Stat. 890), and the Secretary of the Treasury is authorized and directed to make loans to the Corporation for such purpose in the same manner as loans may be made for insurance purposes under such section, subject to the maximum limitation on outstanding aggregate loans there provided.

TITLE II—AMENDMENTS TO THE EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

ACTIVATION OF PROGRAM

SEC. 201. Section 313(a)(1) of the National Housing Act is amended by inserting "or other economic conditions" immediately after "governmental actions".

LIMITATION ON INTEREST RATE

SEC. 202. Section 313(b)(C) of the National Housing Act is amended to read as follows:

"(C) such mortgage involves an interest rate not in excess of that which the Secretary may prescribe, taking into account the cost of funds and administrative costs under this section, but in no event shall such rate exceed the lesser of (i) 7½ per centum per annum, or (ii) the rate set by the Secretary applicable to mortgages insured under section 203(b) of the National Housing Act, and no State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with mortgage transactions or any State law prohibiting the coverage of mortgage insurance required by the Association shall apply to transactions under this section;".

LIMITATION ON POINTS

SEC. 203. Section 313(b) of the National Housing Act is amended by adding the following paragraphs at the end thereof:

"(D) such mortgage is accompanied by a certification by the mortgagee that no points, discounts, or similar fees, other than a loan origination fee not in excess of 1 per centum of the original principal obligation, have been or will be assessed against the prospective buyer or seller in connection with the mortgage loan; and

"(E) such mortgage is purchased at par.".

GUARANTEE AUTHORITY

SEC. 204. Section 313(d)(1) of the National Housing Act is amended—

(1) by striking out "purchased" in the first sentence and inserting "eligible for purchase" in lieu thereof; and

(2) by inserting after the first sentence the following: "Such securities shall bear interest at a rate equal to the rate on the underlying mortgages less an allowance for servicing and other expenses as approved by the Association.".

LIMITATION ON FEES

SEC. 205. Section 313(f) of the National Housing Act is amended—

(1) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

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

"(3) charge a fee for making commitments to purchase mortgage loans or to guarantee securities under this section and for incurring other administrative expenses which shall not be considered a fee for the purpose of clause (D) of the last sentence of subsection (b), but the aggregate of all such fees, regardless of on whom imposed, shall not exceed 1 per centum of the amount of such commitments.".

FEDERAL FINANCING BANK FINANCING

SEC. 206. Section 313(d)(2) of the National Housing Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The Association may offer and sell any mortgages purchased or securities guaranteed under this section to the Federal Financing Bank, and such Bank is authorized and directed to purchase any such mortgages or securities offered by the Association."

COVERAGE OF MULTIFAMILY AND CONDOMINIUM UNITS

SEC. 207. Section 313 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(h) Notwithstanding the provisions of subsection (b), the Association may make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, a mortgage which covers more than four-family residences (including residences in a cooperative or condominium), or a single-family unit in a condominium, and which is not insured under the National Housing Act or guaranteed under chapter 37 of title 38, United States Code, if—

"(1) in the case of a project mortgage, the principal obligation of the mortgage does not exceed, for that part of the property attributable to dwelling use, the lesser of (A) the per unit amount specified in subsection (b)(B), or (B) the per unit limitations specified in section 207 of this Act in the case of a rental project or section 213 of this Act in a case of a cooperative project, or section 234 in the case of a condominium project;

"(2) in the case of a mortgage covering a housing project, the outstanding principal balance of the mortgage does not exceed 75 per centum of the value of the property securing such mortgage or is insured by a qualified private insurer or public benefit corporation created by the State which acts as an insurer as determined by the Association:

"(3) in the case of a mortgage covering an individual condominium unit, the mortgage is insured by a qualified private insurer or public benefit corporation created by the State which acts as an insurer as determined by the Association or has an outstanding principal balance which does not exceed 80 per centum of the value of the property securing the mortgage;

"(4) the mortgage is not being used to finance the conversion of an existing rental housing project into a condominium project or to finance the purchase of an individual unit in a condominium project in connection with the conversion of such project from rental to condominium form of ownership; and

"(5) the mortgage meets the requirements of subsection (b) except as modified by this subsection and any additional requirements the Secretary may prescribe to protect the interest of the United States or to protect consumers.".

AUTHORIZATION

SEC. 208. Section 313(g) of the National Housing Act is amended by adding the following at the end thereof: "Such total amount shall be increased on or after the date of enactment of the Emergency Housing Act of 1975, by such amount as is ap-

proved in an appropriation Act, but not to exceed $10,000,000,000, and the Association shall not issue obligations pursuant to this section utilizing authority which is conferred by this sentence or which is conferred by the first sentence of this subsection but uncommitted on October 18, 1975, except as approved in appropriation Acts."

EXTENSION

SEC. 209. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended—

(1) by striking out "for a period of one year following such date of enactment" and inserting in lieu thereof "until July 1, 1976"; and

(2) by striking out "the expiration of such period" each place it appears and inserting in lieu thereof "such date".

TITLE III—EMERGENCY REPAIR AND REHABILITATION AUTHORITY

SEC. 301. (a) Section 312(h) of the Housing Act of 1964 is amended by striking out "one-year" and inserting in lieu thereof "two-year".

(b) Section 312(d) of such Act is amended by inserting "ending prior to July 1, 1975, and not to exceed $100,000,000 for the fiscal year beginning on July 1, 1975," after "each fiscal year".

SEC. 302. Section 518(b) of the National Housing Act is amended—

(1) by striking out "one or two" and inserting in lieu thereof "one, two, three, or four"; and

(2) by striking out "one year" the second time it appears in clause (1) of the first sentence of such section and inserting in lieu thereof "19 months".

PRIVILEGE OF THE FLOOR

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Ken McLean, Bob Mallakoff, Jerry Buckley, and Tom Brooks be permitted to be present on the floor during the consideration of this measure.

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

Mr. PROXMIRE. Mr. President, the President yesterday vetoed the first measure passed by Congress with respect to emergency housing. The purpose of this bill, as amended, is to show the Nation that the Congress intends to pass legislation to aid home buyers and homebuilders—and the economy which is sputtering along at the lowest employment and production levels in 30 years.

The bill, as amended consists of three titles.

The first is a foreclosure relief measure to protect families who face the loss of their homes because of the current recession. This title is virtually identical to the President's recommendations for dealing with the foreclosure problem, and is entirely consistent with the measure passed by the Congress earlier this month.

The proposed foreclosure relief program would assist some 100,000 families who cannot meet their mortgage payments by authorizing HUD to co-insure mortgages in default, or to make monthly payments of up to $250 for as long as 24 months when lenders are unwilling or unable to forebear on their loans. The title would authorize $1.5 billion for co-insurance contracts, and a maximum of $500 million for mortgage relief loans. It is estimated that the mortgage relief program would operate at negligible cost to the Federal budget since the Federal funds used would be repaid when homeowners are back to work.

A similar program during the depression was one which actually made a profit for the Federal Government. The second title is a Home Purchase Assistance measure. This measure would expand the authority given the President last year to make mortgage credit available when housing starts are low. It would extend the existing Home Purchase Assistance Act to June 30, 1976, permit financing of condominiums and apartments, set a maximum rate of interest at 7½ percent, limit charges for points and fees, and provide for additional housing financing by the Federal Finance Bank. An additional $10 billion in mortgage credit would be authorized, subject to approval by the Committee on Appropriations.

This title is a compromise version of what we previously approved. It does not contain the assistance provided home purchasers through interest reduction and incentive payments included in the bill sent to the President.

That was one of the principal reasons, I suppose the principal reason, why the President vetoed that bill. It does not contain the proposal I made for an automatic starter to stimulate housing production during economic downturns, and for an automatic governor that would shut off the flow of Federal mortgage credit when starts were normalized.

We dropped that provision in conference, before the bill was sent to the President. The measure before us does extend and strengthen the home purchase assistance program initiated by the Congress last year to counteract the sharp decline in housing activity. This is the program that the President has adopted as his 1975 emergency program, a program where there is substantial agreement between the Congress and the President.

That is the second title, and I think really the planned short title for this bill as amended.

The third title includes critically needed housing rehabilitation and repair provisions. Under this title, the widely-supported section 312 rehabilitation loan program would be continued through August 1976 at an authorized level of $100 million. This provision is a compromise version of the provision vetoed by the President. It is included as emergency legislation at the insistence of local and State officials, and housing and citizen organizations all across the country.

The final provision of the bill before us would extend, by 7 months, the time period during which certain purchasers of older inner-city housing insured by FHA, could apply for compensation for correcting serious defects that were not detected at the time of purchase. This extension has not, to my knowledge, been opposed by anyone.

Mr. President, I have introduced these amendments to H.R. 5398 in order to salvage a badly needed program to stimulate housing and employment. The Nation needs a constructive housing program.

The President, as I said, has vetoed the emergency housing bill, which the Senate passed overwhelmingly. He has suggested, in a constructive veto message, however, that he would accept a modified program. This is an effort on our part to meet his objections, and then to beef it up somewhat, to provide what we think will be more housing starts, and also to provide the rehabilitation that people with modest incomes need.

I think this is a housing program that can get very strong and perhaps unanimous support in the Senate.

The Nation needs positive action now. We could come back and fight for another program, and try again to get it passed and to override the veto, but that would not help home buyers or builders meanwhile; it would perhaps take 6 months, and we might end up with nothing.

I think this program is the best we can do.

I ask unanimous consent that the names of the Senator from Alabama (Mr. SPARKMAN), the chairman of the Housing Subcommittee of the Committee on Banking, Housing and Urban Affairs, the Senator from Massachusetts (Mr. BROOKE), the ranking minority member of the Housing Subcommittee; and the Senator from Texas (Mr. TOWER), the ranking minority member of the committee, be added as cosponsors of the amendment.

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

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

Mr. PROXMIRE. I yield.

Mr. SPARKMAN. I am very glad that the chairman has brought up this measure. I think it is a measure that the President can accept, and I hope he will accept it, because we do need something done if we are to provide American families with the decent housing and sanitary housing which we promised them way back in 1949.

I think this bill will contribute greatly toward that end.

I am particularly glad that the foreclosure bill which I introduced in the committee and the committee reported out is being added to this measure. As a matter of fact, is it not true that the President himself endorsed that measure?

Mr. PROXMIRE. He did indeed. He has done it several times. He did it in his veto message just yesterday.

Mr. SPARKMAN. Yes. That, it seems to me, should add to this bill's acceptability, and I honestly hope he will find the bill acceptable.

Mr. PROXMIRE. I thank the distinguished Senator.

Mr. President, I reserve the remainder of my time.

Mr. BROOKE. Mr. President, this afternoon the House of Representatives failed to override the President's veto of H.R. 4485, the Emergency Housing Act of 1975. As one who worked on that bill and supported it throughout the legislative process, I was disappointed that

the President saw fit to veto the bill for budgetary reasons.

There is no question that the housing industry is in a depression. Unemployment in the construction trades stands at approximately 20 percent and is over 40 percent in some areas. I know this is true in parts of Massachusetts and I know the hardships which the families of construction workers are experiencing. While housing starts showed a slight increase last month, and I sincerely hope this trend will continue, we have a long way to go before housing production reaches normal or acceptable levels. Meanwhile, we fall farther and farther behind in the effort to meet our goal of providing decent, safe, sanitary housing for all our people.

While the President vetoed H.R. 4485, he did indicate a willingness to sign a modified bill which would provide some help to the housing industry and to families who are faced with foreclosure.

Now we are faced with a choice. The President is willing to take a part of our program, and this part will provide some aid to the depressed housing industry and some relief to unemployed homeowners who are threatened with foreclosure. Should we adopt this partial program, although it is not what we had hoped for, nor all we would do ourselves, if we had the power to do so?

Our distinguished chairman, the Senator from Wisconsin (Mr. PROXMIRE), our distinguished member of the full committee, the distinguished Senator from Texas (Mr. TOWER), our distinguished chairman of the Subcommittee on Housing from Alabama (Mr. SPARKMAN), and I have discussed this matter fully, and we feel that it is better to do what we can for housing now rather than delay assistance which is desperately needed by the construction industry and unemployed homeowners. Relief has already been too long delayed.

As the Senator from Wisconsin has explained, the amendment which we offer today is substantially similar to the program which the President has said he would accept. There are some differences and some additions to be sure, and these are outlined in the factsheet which has been distributed to Members. These differences are not substantial. Both Senator PROXMIRE and I and other members of the Banking Committee feel strongly that the section 312 rehabilitation loan program must be extended, as should the provision to provide funds for repair of FHA-insured homes which have major defects. Implementation of the so-called defects provision of the 1974 Housing Act has been slowed by a delay in the issuance of HUD regulations. The defects provision is also modified to make it applicable to three- and four-family owner occupied homes of the kind found in Boston and other older cities.

I am pleased that the President has released $2 billion in additional funds under the Emergency Home Purchase Assistance Act, which Senator CRANSTON and I coauthored last year. The amendment which Senator PROXMIRE and I offer today would increase the GNMA's authority under the Brooke-Cranston Act by $10 billion.

Mr. President, many of our colleagues in this body worked with us to secure passage of H.R. 4485, and it was approved by a substantial, bipartisan majority. Many of our colleagues in the House worked hard to override the veto. We share their disappointment and that of the construction workers and homebuilders who worked for H.R. 4485. But now, we ask our friends to join with us in doing what can be done for housing. I urge my colleagues to support the amendment to H.R. 8095, which Senator PROXMIRE and I have offered and to vote for passage of this amended bill.

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

Mr. BROOKE. I yield.

Mr. TOWER. Mr. President, I yield such time as I may require.

I join my distinguished colleagues, Senator PROXMIRE, Senator BROOKE, and Senator SPARKMAN in endorsing this measure.

I was in the unfortunate position of managing the opposition to the bill that was vetoed by the President. I did so very reluctantly because it is the first time I have ever opposed a major housing bill that has come out of the Committee on Banking, Housing and Urban Affairs.

Now that the President has vetoed it and the House of Representatives has sustained it, I am delighted that we are able to offer an alternative that I believe will be acceptable to the administration, and we will be able to afford some relief.

For the most part, this embraces what I consider to be one of the more important provisions of the bill that was vetoed by the President. But I am reliably informed that this section as now couched is not too disagreeable to the administration.

I raise one question with either the Senator from Massachusetts or the Senator from Wisconsin. Inquiry has been raised with me to the effect questioning whether or not modular homes and mobile homes are included in this act?

It is my impression that they are, because they are funded under existing programs, and I just ask the distinguished chairman of the committee to confirm that.

Mr. PROXMIRE. Yes, indeed. It is our intent that the modular and mobile homes would be included. They, of course, are a vital means of shelter for literally millions of people today and hundreds of thousands who buy mobile homes every year want to include them.

Mr. TOWER. That is particularly the low-income families.

Mr. PROXMIRE. That is correct.

Mr. TOWER. That is because it comes within the price range of the low-income family rather than the convention stick house.

I thank my colleague from Wisconsin.

Mr. PROXMIRE. Mr. President, I say that if this bill, as amended, is fully implemented, because it provides a 7.5-percent mortgage rate, with a limitation on points, and because the prevailing rate now is between 8.5 and 9 percent, maybe averaging around 9, because literally hundreds and hundreds of thousands of people who want to buy homes cannot buy a home because that rate is too high, in my view it could provide an additional 250,000 or 300,000 housing starts. If it did that, there are two-man years of work that would mean between 500,000 and 600,000 jobs.

So this is not only a good housing bill, it is a vital job bill at a time when we urgently need that, when unemployment in construction trades is 22 percent and in residential building is over 40 percent, so I think that, from the standpoint of the economy as well as from the standpoint of housing, this is sound legislation.

Mr. President, I understand that the pending measure is the amendment that was adopted to the House bill. Is that correct?

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

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 amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. PROXMIRE. Mr. President, I yield back my time.

Mr. TOWER. Mr. President, I yield back all of my time.

Mr. President, I ask the distinguished deputy majority leader if he will propound a unanimous-consent request on a time to vote tomorrow on this measure.

Mr. ROBERT C. BYRD. Yes; I am glad to.

Does the Senator want any additional time? Does either Senator want any additional time tomorrow?

Mr. TOWER. I would think no additional time is required on this side.

Mr. ROBERT C. BYRD. Very well.

Mr. PROXMIRE. No additional time is required over here.

Mr. ROBERT C. BYRD. Very well.

Mr. TOWER. If I may note further to the Senator from West Virginia, several of our colleagues have wanted to be on record on this matter and requested a record vote.

Since the announcement has been made that there will be no more record votes tonight, I would appreciate it if the distinguished acting leader would accommodate us on a vote at a time certain tomorrow.

Mr. ROBERT C. BYRD. Yes, very well.

ORDER FOR VOTE ON H.R. 5398

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on final passage of the pending measure occur tomorrow immediately after the vote on cloture.

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

ORDER VITIATING RECOGNITION OF SENATOR PACKWOOD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order that was previously entered for the recognition of Mr. Packwood tomorrow be vitiated.

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

ORDER DIVIDING TIME EQUALLY BEFORE CLOTURE VOTE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour preceding the vote on cloture tomorrow be evenly divided between Mr. CANNON and the Republican leader or his designee.

The PRESIDING OFFICER. Without objection it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 9 a.m., following a recess. After the two leaders or their designees have been recognized under the standing order Mr. LEAHY and Mr. MONDALE will be recognized in that order, each for not to exceed 15 minutes.

The Senate will then resume consideration of S. Res. 166, and the 1 hour under rule XXII will begin running, prior to the establishment of a quorum and the vote on the motion to invoke cloture.

The clerk will call the roll at approximately 10:30 a.m. to establish a quorum, and at 10:45, or roughly thereabouts, the rollcall vote, which is automatic, will occur on the motion to invoke cloture.

Immediately upon the disposition of the cloture vote, the Senate will vote, and undoubtedly that will be a rollcall vote, on the adoption of H.R. 5398, as amended.

Upon the disposition of the vote, as of now, it appears that the Senate will resume consideration of Senate Resolution 166, but that decision can await the time.

So there will be rollcall votes tomorrow, the first to occur about 10:45 a.m.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9 a.m. tomorrow.

The motion was agreed to; and at 6:11 p.m., the Senate recessed until tomorrow, Thursday, June 26, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 25, 1975:

FEDERAL HOME LOAN BANK BOARD

Garth Marston, of Washington, to be a member of the Federal Home Loan Bank Board for the term expiring June 30, 1979 (reappointment).

DEPARTMENT OF JUSTICE

James B. Young, of Indiana, to be U.S. attorney for the southern district of Indiana for the term of 4 years vice Stanley B. Miller, resigned.

Sherman L. Hansford, of Kentucky, to be U.S. marshal for the eastern district of Kentucky for the term of 4 years vice Thomas E. Asher, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 25, 1975:

FEDERAL RESERVE SYSTEM

Philip C. Jackson, Jr., of Alabama, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1968.

CIVIL SERVICE COMMISSION

L. J. Andolsek, of Maryland, to be a Civil Service Commissioner for the term of 6 years expiring March 1, 1981.

(The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Wednesday, June 25, 1975*

The House met at 11 o'clock a.m.

The SPEAKER. The House is very honored to have the opportunity to have our prayer offered this morning by the Reverend Edward L. R. Elson, S.T.D., Chaplain of the Senate.

The Reverend Edward L. R. Elson, S.T.D., Chaplain of the U.S. Senate, offered the following prayer:

O God, our Father, we thank Thee for this new day and for the high privilege of serving the Nation in this place. Grant unto us to waste none of its hours, to soil none of its moments, to neglect none of its opportunities, to fail in none of its duties. May we grow in self-control and self-mastery. Use us for making a better nation and a better world. Grant to us the purity of heart of those who see God. May Thy kingdom come and Thy will be done beginning in us. Bring us to the evening at peace with ourselves, at peace with our fellow men, and at peace with Thee.

In Thy holy name we pray. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 6387. An act to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 3 months.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 792. An act to provide increased employment opportunity by executive agencies of the U.S. Government for persons unable to work standard working hours, and for other purposes;

S. 1774. An act 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;

S. 1972. An act to amend the Airport and Airway Development Act of 1970, as amended, so as to extend the airport and airway development program authority; and

S. 2003. An act to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes.

SHORTENED FOURTH OF JULY RECESS URGED

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

Mr. DODD. Mr. Speaker, I do not think the House of Representatives can justifiably take this 10-day recess.

Under some circumstances, taking such a recess at the present time would be perfectly acceptable and appropriate. These circumstances do not exist at the present time.

Despite devoting long hours of debate to the severe economic and energy problems of this country, Congress has just not had enough time to come up with comprehensive solutions to these twin crises.

The energy dilemma is still with us, and the economic picture is still bleak.

Yet, after working long hours already on these problems, with much more remaining to be done, what is the House of Representatives now proposing to do?

Through this resolution we are proposing to postpone necessary action for another 10 days.

Mr. Speaker, we must not do this—especially after we have just returned from a lengthy Memorial Day recess and are planning to take another recess for the entire month of August.

Since returning from the Memorial Day recess, we have had only 18½ legislative days to work on important legislation aimed at dealing with the country's problems.

If we recess as scheduled tomorrow, there will only be another 17½ legislative days available between noon on July 8 and the close of business on July 31, when the August recess begins. We then will be on recess for 22½ days until September 3.

Mr. Speaker, all these figures mean that if the House recesses tomorrow, it will have had only 36 days in Washington to deal with important legislation—and it will have spent almost as many days, 32½, on recess.