tion on a part-time career employment basis shall be allowed credit of one month for each one hundred and seventy-three hours of work performed for which deductions are made under this subchapter or deposits may be made.".

(2) The amendment made by paragraph (1) of this section shall apply to an employee referred to in such amendment commencing on the first day of the first pay period of that employee which begins on or after the date of enactment of this Act.

(c) Section 8347(g) of title 5, United States Code, is amended by adding at the end thereof the following: "However, the Commission may not exclude any employee who occupies a position on a part-time career employment basis (as defined in section 3201(2) of this title).".

(d) Section 8716(b) of such title 5 is amended—

(1) by striking out of the second sentence "or part-time";

(2) by striking out "or" at the end of clause (1);

(3) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "or"; and

(4) by adding at the end thereof the following:

"(3) an employee who is occupying a position on a part-time career employment basis (as defined in section 3201(2) of this title).".

(e) Section 8913(b) of such title 5 is amended—

(1) by striking out "or" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(3) an employee who is occupying a position on a part-time career employment basis (as defined in section 3201(2) of this title).".

"§ 3208. Employee organization representation

"If an employee organization has been accorded exclusive recognition with respect to a unit within an agency, then the employee shall be entitled to represent all employees within that unit employed on a part-time career employment basis.".

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the amendments made by this Act.

SENATE—*Thursday, January 30, 1975*

The Senate met at 11 a.m. and was called to order by Hon. WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

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

O Thou who has taught us that "they that wait upon the Lord shall renew their strength," renew us with Thy grace and wisdom. On this day when the leaders of the Nation pause to pray together, teach us to pray every day—to pray at work as at worship—to pray in this Chamber as we pray in Thy house—to pray alone and with others—to pray at all times and in all places—to live in the spirit of prayer and ever to be in accord with Thy will. O God, be with this Nation and its leaders.

We pray in Thy holy 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., January 30, 1975.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, January 29, 1975, be dispensed with.

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

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, of not to exceed 45 minutes, with statements therein limited to 5 minutes each.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, after the distinguished Republican leader speaks, under the order, or yields back the time, and if no other Senator wishes to speak, it will be my intention to move to recess for 30 minutes.

Mr. HUGH SCOTT. Mr. President, I am not sure that anything I say will contribute to the preservation of the Union. Out of sympathy for our general condition and out of mercy for the people, I yield back my time.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

RESCISSIONS AND DEFERRALS OF APPROPRIATIONS—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. FORD) laid before the Senate a message from the President of the United States proposing 35 new rescissions and 14 new deferrals which, with the accompanying papers, was ordered to be held at the desk. The message is as follows:

To the Congress of the United States:

I herewith report on additional rescissions and deferrals for fiscal year 1975, as required by the Congressional Budget and Impoundment Control Act of 1974.

Thirty-five new rescissions and 14 new deferrals are proposed in the amounts of $1,097 million and $769 million, respectively. In addition, five revised rescission reports reduce by $178 million the amounts proposed for rescission in earlier reports, and 12 revised deferral reports increase the amounts reported as deferred in earlier reports by $111 million.

In the main, the rescissions and deferrals transmitted herein seek to reduce the increased Federal spending that would otherwise result from four recently-enacted 1975 appropriation bills—Labor-Health, Education, and Welfare; Agriculture-Environmental and Consumer Protection; the First Supplemental; and the Urgent Supplemental. The 93rd Congress, in the conference report on the Labor-HEW bill, indicated its willingness ". . . to give full consideration to such rescissions and deferrals . . . " as might be required to keep 1975 spending within the total estimate for the bill.

If the Congress does not agree to the rescissions and deferrals accompanying this message, the 1975 deficit will grow by $357 million and the 1976 deficit by $675 million. I ask the 94th Congress to give full consideration to the question of whether increased Federal spending—with its associated inflationary effects and implied longer-term commitments—is warranted for these programs at this time.

GERALD R. FORD.

THE WHITE HOUSE, *January 30, 1975.*

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF from the Committee on Government Operations:

S. Res. 49. An original resolution authorizing additional expenditures by the Committee on Government Operations for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. MUSKIE, from the Committee on the Budget:

S. Res. 50. An original resolution authorizing additional expenditures by the Committee on the Budget for inquiries and in-

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vestigations. Referred to the Committee on Rules and Administration.

By Mr. LONG, from the Committee on Finance:

S. Res. 51. An original resolution authorizing additional expenditures by the Committee on Finance for inquiries and investigations. Referred to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Betty Southard Murphy, of Virginia, to be a member of the National Labor Relations Board.

(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.

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. JAVITS:

S. 491. A bill to amend the Rail Passenger Service Act of 1970 in order to expand rail passenger service. Referred to the Committee on Commerce.

S. 492. A bill entitled the Neighborhood Conservation Act. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. JAVITS (for himself and Mr. BUCKLEY):

S. 493. A bill to add an additional judgeship in the Western District of New York. Referred to the Committee on the Judiciary.

By Mr. JAVITS:

S. 494. A bill to amend the Immigration and Nationality Act to provide for the immigration of children of individuals suffering from Hansen's disease. Referred to the Committee on the Judiciary.

By Mr. RIBICOFF (for himself, Mr. PERCY, Mr. METCALF, Mr. INOUYE, Mr. MONTOYA, Mr. WEICKER, and Mr. MONDALE):

S. 495. A bill to establish certain Federal agencies, effect certain reorganizations of the Federal Government, and to implement certain reforms in the operation of the Federal Government recommended by the Senate Select Committee on Presidential Campaign Activities, and for other purposes. Referred to the Committee on Government Operations.

By Mr. BENTSEN:

S. 496. A bill to amend the Social Security Act so as to provide, for a 1-year period, hospital insurance coverage under Medicare for unemployed workers and their families. Referred to the Committee on Finance.

By Mr. BUCKLEY (for himself, Mr. BROOKE, Mr. DOLE, Mr. HUMPHREY, and Mr. DOMENICI):

S. 497. A bill to provide for the monthly publication of a Consumer Price Index for the Aged which shall be used in the provision of cost-of-living benefit increases authorized by title II of the Social Security Act. Referred to the Committee on Finance.

By Mr. EAGLETON:

S. 498. A bill to amend title XVI of the Social Security Act to permit individuals who are residents in certain public institutions to receive supplementary security income benefits. Referred to the Committee on Finance.

By Mr. TUNNEY:

S. 499. A bill to amend the Motor Vehicle Information and Cost Savings Act. Referred to the Committee on Commerce.

By Mr. NELSON:

S. 500. A bill to increase the fees and reduce the financial hardships for those individuals who serve on grand or petit juries in district courts, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. WILLIAM L. SCOTT:

S. 501. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses. Referred to the Committee on Commerce.

S. 502. A bill to amend title 13, United States Code, to provide certain limitations with respect to the types and number of questions which may be asked in connection with the decennial censuses of population, unemployment, and housing, and for other purposes. Referred to the Committee on Post Office and Civil Service.

S. 503. A bill to transfer to the Attorney General jurisdiction over the District of Columbia penal facilities at Lorton, and for other purposes. Referred to the Committee on the District of Columbia.

By Mr. HELMS

S. 504. A bill to protect consumers, preserve jobs, and provide emergency relief for natural gas shortages, and for other purposes. Referred to the Committee on Commerce.

By Mr. CHURCH:

S. 505. A bill entitled the United States Petroleum Import Act. Referred to the Committee on Finance.

S. 506. A bill to amend the Water Resources Planning Act to extend the authority for financial assistance to the States for water resources planning. Referred to the Committee on Interior and Insular Affairs.

By Mr. HASKELL (for himself, Mr. JACKSON, and Mr. METCALF):

S. 507. A bill to provide for the management, protection, and development of the national resource lands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. PROXMIRE:

S. 508. A bill for the relief of Abram Aguirre-Gonzalez. Referred to the Committee on the Judiciary.

By Mr. STEVENS (for himself, Mr. DOMENICI, and Mr. MONTOYA):

S. 509. A bill to revise retirement benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service not entitled to Indian preference, provide greater opportunity for advancement and employment of Indians, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. WILLIAMS, Mr. ABOUREZK, Mr. BEALL, Mr. CRANSTON, Mr. HATHAWAY, Mr. RANDOLPH, and Mr. SCHWEIKER):

S. 510. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices. Referred to the Committee on Commerce.

By Mr. PEARSON (for himself and Mr. INOUYE):

S. 511. A bill to authorize the Secretary of Commerce to engage in certain small business export expansion activities, and for other purposes. Referred to the Committee on Commerce.

By Mr. JAVITS:

S.J. Res. 22. A joint resolution authorizing the President to proclaim the first Sunday of June of each year as "American Youth Day". Referred to the Committee on the Judiciary.

By Mr. HARRY F. BYRD, JR. (for himself, Mr. WILLIAM L. SCOTT, Mr. GRAVEL, Mr. HELMS, Mr. HUMPHREY, Mr. NUNN, Mr. THURMOND, Mr. TOWER, and Mr. MATHIAS):

S.J. Res. 23. A joint resolution to restore posthumously full rights of citizenship to General R. E. Lee. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS:

S. 491. A bill to amend the Rail Passenger Service Act of 1970 in order to expand rail passenger service. Referred to the Committee on Commerce.

AMTRAK SERVICE BETWEEN MAJOR CITIES AND VACATION RESORTS

Mr. JAVITS. Mr. President, I reintroduce today amendments that will help to speed the long overdue process of restoring our Nation's rail passenger system to the place it deserves in our overall national transportation program. Although the initial commitment to a federally supported National Railroad Passenger Corporation was made over 4 years ago, and substantial progress has been made both in terms of better service and improved planning, it is imperative that this commitment be increased and amplified if we are to meet the goals of a truly balanced transportation system and obtain the benefits of a rail system that serves the Nation's needs.

For most Americans, travel by rail is not an available or feasible alternative to the airplane and the private automobile. Yet by the standards of energy efficiency, environmental improvement, and land use, rail service provides not only a better alternative, but also a crucial and overlooked component of the solution to our environmental and energy dilemmas.

Moreover, our citizens have shown us that where convenient rail passenger service exists, the demand for its use has skyrocketed. Even before the onslaught of the energy crisis, which highlights the immediacy of the need for an expanded rail passenger system, the public finally began to return to the railroads as a means of transportation.

Amtrak's president, Roger Lewis, stated in his report to the Congress of 1973, that—

> Travel demand that had been anticipated by 1977 as a result of normal growth is with us now.

But even with this unprecedented increase in demand, Amtrak has neither the legislative commitment or direction which it so vitally needs to make rail service available to a greater number of people.

Currently only 1 percent of all intercity travel is via railroad. This compares to 87 percent by private automobile, 10 percent by air, and 2 percent by bus. If we are to seriously attack the inefficiencies in energy utilization in the country—of which the transportation sector is the most blatant example—dramatic shifts in these percentages are essential and must be begun without further delay. Yet existing law requires only one new train to be instituted each year. This

rate of expansion must be increased and better directed by the Congress.

The Rail Passenger Service Act Amendments that I introduce today primarily address two related aspects of Amtrak service. They could pave the way for an efficient and realistic transportation alternative for millions that presently have no rail passenger service at all and for millions more who, because of the inadequacy of the rail passenger system, cannot use Amtrak service for their major transportation event each year—their vacation travel.

It is startling that our national rail passenger system, as it is presently constituted, does not serve such cities as Tulsa, Okla., and Jersey City, N.J., with populations greater than ½ million, or the States of Maine and South Dakota. These and the many other omissions in the system must be corrected.

My first amendment would pave the way for these services to be instituted, with the conditions appropriate to insuring that only truly necessary service will be commenced, and with the added benefit of saving the Federal taxpayer money when these services are primarily for the benefit of a single State.

It contains a major change in the Federal commitment to rail passenger service where States or local transportation agencies want and need such service, but cannot afford to institute it without substantial Federal assistance.

Present law requires the State or locality to pay two-thirds of the avoidable and capital costs. In no other mode of interstate transportation is the Federal share so low. For all major road construction under the highway trust fund the Federal share varies from 70 to 90 percent. Federal airport development assistance varies from 50 to 80 percent of the costs involved. The newly enacted mass transit assistance act provides 50 to 80 percent Federal share. My amendment would change the Federal share of shared rail passenger service assistance to 66⅔ percent. If this sharing provision is to have any utility whatsoever, and provide the impetus to expanding our national rail passenger system, the Federal share must be on this level.

The amendment would also authorize specific funds for this assistance. Currently, any Federal assistance under this section would have to come out of Amtrak's general appropriation, thereby potentially impairing service on other routes. This is obviously self-defeating. And it is for this reason that Amtrak has been so reluctant to institute any shared service. If a State or locality commits one-third of the needed funding, the Federal Government should stand ready to provide the balance for so necessary a service.

The new Federal-State relationship would apply only to service instituted after the enactment of this legislation, and to service pursuant to contracts renegotiated after enactment.

Moreover, the proposed $10 million authorization which, by Amtrak's estimates, would cover the two-thirds Federal share for all planned and probable service, is not meant to deny the use of general appropriation for section 403 service if Amtrak deems that appropriate, or if the authorized amount is not fully appropriated.

But Amtrak would not be required, although it would be authorized, to pay for section 403 service above and beyond the $10 million level for fiscal year 1975. This is the amount that Amtrak presently considers necessary to fund renewed contracts and institution of probable new service. The $10 million fiscal year 1975 limitation is necessary to prevent substantial division of Amtrak's general appropriation if many States and localities request new service. If, in fact, this occurs I would expect that the 1976 Amtrak authorization would carefully consider the need to expand the specific funding level for section 403 service.

I would add that I fully expect, if this amendment is enacted, many States and localities to rethink their role in the rail passenger service field, and to propose significant and worthy routes that would provide rail service to many areas that presently have none.

Mr. President, I ask unanimous consent to print, at this point in the RECORD, a table prepared by Amtrak of the costs of service under section 403 and the additional funding that would be required by the amendment.

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

State: route	Fiscal year 1975		Cost to Amtrak		
	Operating loss	Capital cost	Existing law	Senate committee amendment	Overall relation to ⅓ costs
Existing service:					
Illinois:					
Chicago-Quincy	$345,000		$115,000	$115,000	$230,000
Chicago-Springfield	277,000		92,300	92,300	184,600
Chicago-Dubuque	450,000	$50,000	167,000	167,000	334,000
Chicago-Champaign	288,000		96,000	96,000	192,000
Massachusetts: Boston-Springfield	200,000		67,000	67,000	134,000
Pennsylvania: Philadelphia-Harrisburg	90,000		30,000	30,000	60,000
Definitely planned:					
New York:					
New York Central-Montreal	1,900,000	4,500,000	633,000	2,133,000	4,266,000
Buffalo-Detroit	800,000	2,000,000	267,000	933,000	1,866,000
Illinois: Chicago-Decatur	450,000	500,000	150,000	317,000	634,000
Michigan: Chicago-Port Huron	1,162,000	1,200,000	387,000	787,000	1,574,000
Probable:					
Minnesota: Minneapolis-Duluth	512,000	675,000	171,000	396,000	792,000
Total			2,175,300	5,133,300	10,266,600

Mr. JAVITS. Mr. President, the second section of this amendment is directed to a more specific problem: the critical need to provide rail service to vacationers. This section would begin to put vacation travelers back on the railroads, which is a service as much needed by the travelers themselves as by our tourist and recreation industry.

Last winter saw the severe effects of the gasoline shortage on the tourist industry. Hearings were held in the Senate on the energy-related problems of that industry. However, we also witnessed the tremendous savings in precious gasoline that can be effected by cutting back vacation travel by automobile.

If these savings are to continue on any scale—savings that are critical to our energy independence—vacationers must be provided with a reasonable alternative mode of transportation to recreation areas, such as national parks and shore and mountain resort regions. That alternative is clearly the passenger train.

I shall propose a modest start toward that goal. First, the Secretary of Transportation shall study the need for such service, and identify the routes where potential for use is greatest.

The amendment is limited to medium distance recreation service, although I know there is also a need for long distance service. But, it is generally held that rail passenger service demand is greatest for points 100 to 300 miles apart. People traveling shorter distances more often opt for the automobile, while longer distances bring out the time advantages of air travel.

A few examples of service that could be provided pursuant to this section are New York City to the Catskill Mountains resort area; Los Angeles to Las Vegas; and Boston to the New Hampshire and Vermont resort regions. The list could be endless. Rights of way and trackage—now lying idle with respect to passenger service—exist on many such routes so the costs would be limited to facility improvement and equipment acquisition.

The amendment requires only one recreation route to be instituted annually, and would not require this to begin until 1976. While I would prefer to see Amtrak move faster, I recognize the reality of the passenger equipment shortage and the lead time necessary to obtain new equipment, and I do not wish to see cars diverted from the basic system, where they are critically needed.

This proposal is modest but provides a needed start toward the institution of substantial rail passenger service for vacation travelers.

The final section calls for a study, by

the Department of Transportation, on the need for rail passenger service from center cities to metropolitan airports. Such service may or may not be properly performed by Amtrak. But a close look should be taken at the need for and costs of this type of service, and the role, if any, that the Federal Government should play.

This study can adequately be undertaken by existing Urban Mass Transit Administration personnel, in coordination with the Federal Aviation Administration and the Department of Transportation staff.

Mr. President, it is time we began to alter the transportation priorities that have led to our overdependence on the private automobile. Last year, of the $28.2 billion in public fundings for transportation, only one-fourth of 1 percent went to rail transportation. This compares with 86 percent for highways and 10 percent for air transportation. This past year has shown us that the rail passenger system is not dead, it is merely dormant. It is time we gave it some vitality. Although I do not view this as a cornerstone of national energy policy, measures such as these are necessary as adjuncts of a comprehensive and coordinated energy strategy if it is to succeed. Legislative initiative such as this is required if rail passenger service is to become a realistic alternative mode of transportation to the private automobile for the majority of Americans.

By Mr. JAVITS:

S. 492. A bill entitled the Neighborhood Conservation Act. Referred to the Committee on Banking, Housing, and Urban Affairs.

NEIGHBORHOOD CONSERVATION ACT

Mr. JAVITS. Mr. President, I introduce for appropriate reference legislation to encourage the preservation of existing housing, to stimulate the conservation and upgrading of existing low- and moderate-income housing; and to generate private capital for housing repairs, maintenance, and rehabilitation.

In New York City approximately 180,000 units were abandoned between 1965 and 1970. In addition the existing housing shortages for low- and moderate-income families remain quite severe throughout New York State and the Nation. Heretofore, national housing efforts have focused mainly on the production of new housing while neglecting the existing housing stock. In New York City much energy and large resources have been poured into new housing for depressed communities, while housing in transitional or bordering neighborhoods have been deteriorating at an alarming rate. Transitional neighborhoods such as Washington Heights in Manhattan, Crown Heights, East Flatbush, and Bushwick in Brooklyn and Tremont in the Bronx can be the depressed communities of tomorrow. Therefore, at this time we need new initiatives to preserve and upgrade our existing housing while continuing production efforts.

Under the section 236 program, which involves a deep interest subsidy down to 1 percent, HUD has been unwilling as yet to permit the program to be used for large scale moderate rehabilitation. Also, because section 236 rehabilitation subsidies compete with subsidies for new housing, HUD has placed a limit on the 236 funds to be used for rehabilitation. Finally, under section 236, rehabilitation must be extensive with no provisions made for moderate rehabilitation. Thus, the existing programs are not adequate to cope with the crucial problem of abandonment and decay of housing in transitional neighborhoods. This situation has not radically changed with the newly created section 8 program.

The legislation I am introducing today provides for a three-pronged attack on the problem of conserving existing low- and moderate-income housing stock and generating private capital for repairs, maintenance, and rehabilitation.

First, the legislation provides for areas to be designated as "neighborhood conservation areas" by local governmental entities, which areas would then be eligible for grants by HUD to be used for repairs of streets, sidewalks, playgrounds, and schoolyards; improvements of private property to eliminate dangers to health and safety and other similar neighborhood-oriented activities and improvements calculated to aid in achieving the objectives of the legislation.

In order to receive grants, localities would have to submit a 5-year plan and demonstrate at the end of each year that significant progress was being made. It is hoped that this program along with the other parts of the bill will help localities make a coordinated attack on abandonment and decay of existing housing.

Second, the legislation would provide for a new mortgage insurance program covering residential property located in neighborhood conservation areas. All properties covered would be multifamily rental properties, or cooperative or condominium properties which are basically sound or capable of being placed in standard conditions without substantial rehabilitation.

In the case of a mortgagor who is an owner-occupier of a building containing two to seven units, or of a cooperative or condominium covering more than seven units, the mortgage could cover 97 percent of the value of the property. The mortgage could be upped to 100 percent of value for nonprofit organizations and would be for 90 percent of value in the case of limited dividend entities. However, only owners who lived on the premises would be allowed to secure mortgages under this legislation on property of less than seven units. This will serve to eliminate many of the abuses we have seen in existing insurance programs covering small dwelling units.

The mortgage program will allow for refinancing or sale of the property provided that repair and improvements are made to such property. HUD will have to take such steps as it deems necessary to insure that repairs and improvements have been or will be made.

Third, the legislation provides that rentals on properties which receive mortgage insurance shall not be increased for a period of at least 1 year from the date of final endorsement of the insurance or thereafter unless the increase can be justified on the basis of increased operating expenses. For the purpose of maintaining or reducing rentals the Secretary of HUD is authorized to make interest reduction payments on behalf of the owners of the properties—but for the benefit of the tenants which will reduce interest rates down to a minimum of 4 percent per annum. This "shallow subsidy" should enable rents to remain steady or perhaps decrease depending on the individual owner's mortgage terms.

Finally, the Secretary of HUD is authorized to take such steps as accelerated processing of applications under the program; implementing the Government National Mortgage Association's authority to purchase mortgages under this legislation and to coordinate with other Government departments to insure that manpower training funds and funds for small businesses and minority businesses are made available to neighborhood conservations areas.

Authorizations for neighborhood conservation area grants are $100 million for fiscal 1975, $150 million for fiscal 1976, and $200 million for fiscal 1977 and for mortgage interest reduction payments, $50 million for fiscal 1975, $100 million for fiscal 1976, and $150 million for fiscal 1977.

I believe that this legislation will provide the coordinated attack that is necessary to preserve many of the "transitional areas" in New York State and other States of the Nation. It is imperative that this new program be enacted as quickly as possible.

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

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

S. 492

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 "Neighborhood Conservation Act".

PURPOSE

SEC. 2. The purpose of this Act is to encourage the preservation of older neighborhoods which are threatened with blight and housing abandonment and to stimulate the broad-scale conservation and upgrading of existing low- and moderate-income housing by establishing a program of neighborhood conservation grants and a new program of mortgage insurance designed to generate private capital for housing repairs, maintenance, and rehabilitation.

GRANTS OF NEIGHBORHOOD CONSERVATION AREAS

SEC. 3. For the purpose of this Act, the term "neighborhood conservation area" means any area in which (1) the predominant residential area is housing for low- and middle-income families, and (2) such housing, though basically sound, is threatened with decay and abandonment or is in need of repair, maintenance, rehabilitation, or refinancing.

PROGRAM AUTHORITY

SEC. 4. (a) The Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") is authorized to make, and to contract to make, grants under this section to cities, municipalities, counties, and other general purpose units of local government to assist them in carrying out designated neighborhood conservation area programs designed to improve basic community facilities and services and bring about such other changes as may be necessary or appropriate to eliminate the threat of housing abandonment or decay in such areas and

to restore and maintain such areas as suitable and stable living environments.

(b) Grants under this section may cover a period of not to exceed five years and may provide 100 per centum of the cost of any of the following types of activities within the neighborhood conservation area:

(1) The repair of streets, sidewalks, playgrounds, schoolyards, paths, street lights, traffic signs and signals, publicly owned utilities, or public buildings which have an impact on the quality of life in the neighborhood.

(2) The improvement of private properties to eliminate dangers to the public health and safety.

(3) The demolition of structures determined to be structurally unsound or unfit for occupancy.

(4) The establishment of temporary or permanent public playgrounds or parks within the area to serve residents of the neighborhood.

(5) Other similar neighborhood-oriented activities and improvements calculated to aid significantly in achieving the objectives of this section.

(6) Assistance to qualified neighborhood-based nonprofit organizations in carrying out development activities under other provisions of this Act or in carrying out management training, maintenance, or tenant education programs.

(c) To be eligible for assistance under this section, a locality acting through its chief executive authority, shall designate a specific area and prepare and submit to the Secretary a plan specifying—

(1) the improvements in basic community facilities and services to be made in such area over the five-year period in which such improvements will be made;

(2) the programs to be introduced to improve the quality of housing in the area; and

(3) the public and private resources which will be marshaled to carry out such improvements and programs.

(d) Grants under this section shall be made, or shall continue to be in effect, with respect to any neighborhood conservation area if the Secretary finds that—

(1) the five-year plan submitted by the locality involved is workable and will provide an effective means of carrying out the purposes of this Act in such areas;

(2) the locality has the necessary resources to carry out in a timely fashion all of the improvements and programs set forth in the plan;

(3) the locality continues to make significant progress toward achieving its objectives it established for itself in the plan during the term of the grant; and

(4) the locality satisfies such other conditions and requirements as the Secretary may prescribe to insure that the purpose of this Act will be achieved.

(e) There are authorized to be appropriated for grants under this section not to exceed $100,000,000 for the fiscal year ending June 30, 1975, not to exceed $150,000,000 for the fiscal year ending June 30, 1976, and not to exceed $220,000,000 for the fiscal year ending June 30, 1977. Any amount so appropriated shall remain available until expended, and any amount authorized for any fiscal year under this subsection which is not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1977.

(f) The Secretary is authorized to designate an area which meets the requirements of this section as a neighborhood conservation area notwithstanding the unavailability of funds for grants under this section. Upon such designation, the Secretary may furnish other assistance (including assistance under any mortgage insurance or related housing maintenance program) to such area.

FEDERAL MORTGAGE INSURANCE TO FACILITATE SALE OR REFINANCING OF HOUSING IN NEIGHBORHOOD CONSERVATION AREAS

SEC. 5. (a) Title II of the National Housing Act is amended by adding at the end thereof the following new section:

"MORTGAGE INSURANCE IN NEIGHBORHOOD CONSERVATION AREAS

"SEC. 244. (a) The purpose of this section is to help preserve and upgrade the quality of housing in designated neighborhood conservation areas by facilitating the rehabilitation refinancing of such housing or its transfer to tenant- or neighborhood-based corporate ownership.

"(b) The Secretary is authorized to insure any mortgage in accordance with the provisions of this section and to make commitments for such insurance prior to the date of the execution of the mortgage or disbursement thereon upon such terms and conditions as he may prescribe.

"(c) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers residential property located in a neighborhood conservation area approved for assistance under section 4 of the Neighborhood Conservation Act or any area designated as a neighborhood conservation area under section 4(e) of such Act, subject to the following conditions:

"(1) The mortgage shall cover a multifamily rental property, or a cooperative or condominium property which is basically sound or capable of being placed in standard condition without substantial rehabilitation and which contains—

"(A) more than one but less than seven dwelling units if the mortgagor is an individual or entity described in paragraph (2) of this subsection; or

"(B) seven or more dwelling units if the mortgagor is an organization described in paragraph (3) of this subsection.

"(2) The mortgage covering property referred to in paragraph (1)(A) of this subsection shall be executed by—

"(A) an individual who owns the property and occupies the property and is refinancing outstanding indebtedness related to the property, or who is purchasing the property and will occupy one or more of the units in the property after its purchase;

"(B) a cooperative or condominium organization which consists of a majority of the residential units on the property; or

"(C) a private nonprofit organization which is based in the neighborhood in which the property is located and which is approved by the Secretary.

"(3) The mortgage on a property referred to in paragraph (1)(B) of this subsection shall be executed by—

"(A) a cooperative or condominium organized which consists of or includes a majority of the occupants of the property;

"(B) a private nonprofit organization or association approved by the Secretary; or

"(C) a limited dividend ownership entity (as defined by the Secretary) including, but not limited to, corporations, general or limited partnerships, trusts, associations, and single proprietorships.

"(4) In the case of a mortgage involving a mortgagor referred to in paragraphs (2)(A), (2)(B), and (3)(A) the mortgage shall include a principal obligation, including such initial services charges, discounts, appraisal, inspection, and other fees, as the Secretary shall approve in an amount not to exceed the sum of 97 per centum of the Secretary's estimate of the value of the property before any repairs or improvements deemed necessary by the Secretary to help restore or maintain the area in which the property is situated as a stable and suitable living environment, except that in no case involving refinancing shall such principal amount exceed such estimated costs of repairs and improvements and the amount (as determined by the Secretary) required to refinance existing indebtedness secured on the property.

"(5) In the case of a mortgage involving a mortgagor referred to in paragraph (2)(C) or (3)(B), the mortgage shall include a principal obligation, including such initial services charges, discounts, appraisal, inspection, and other fees, as the Secretary shall approve in an amount not to exceed the sum of 100 per centum of the Secretary's estimate of the value of the property before any repairs or improvements deemed necessary by the Secretary to help restore or maintain the area in which the property is situated as a stable and suitable living environment, except that in no case involving refinancing shall such principal amount exceed such estimated cost of repairs and improvements and the amount (as determined by the Secretary) required to refinance existing indebtedness secured in the property.

"(6) In the case of a mortgage involving a mortgagor referred to in paragraph (3)(C), the mortgage shall include a principal obligation, including such initial services charges, discounts, appraisal, inspection, and other fees, as the Secretary shall approve in an amount not to exceed the sum of 90 per centum of the Secretary's estimate of the value of the property before any repairs or improvements deemed necessary by the Secretary to help restore or maintain the area in which the property is situated as a stable and suitable living environment, except that in no case involving refinancing shall such principal amount exceed such estimated cost of repairs and improvements and the amount (as determined by the Secretary) required to refinance existing indebtedness secured on the property.

"(7) The mortgage shall—

"(A) provide for complete amortization by periodic payments within such term (not exceeding forty years) as the Secretary shall prescribe, except that in the case of a property referred to in paragraph (1)(A) such term shall not exceed twenty years;

"(B) bear interest (exclusive of premium charges for insurance and service charges, if any) on the amount of the principal obligation outstanding at any time at not to exceed such per cent per annum as the Secretary finds necessary to meet the mortgage market.

"(8) The Secretary shall not insure any mortgage under this section unless he has received satisfactory and enforceable assurances from the mortgagor that the refinancing or sale of the property (and any improvements thereto) will not result, directly or indirectly, in any increase in the rentals or other charges for dwelling units in the property for a period of at least one year from the date of final endorsement for mortgage insurance, or in any increases in such rentals thereafter in excess of such increases as the Secretary finds justified and approves on the basis of increased operating expenses. In addition, the Secretary may place such further restrictions on the mortgagor as to sales, charges, capital structure, rate of return, and methods of operation as, in the opinion of the Secretary, will best effectuate the purpose of this section.

"(d)(1) For the purpose of maintaining or reducing rentals or other charges for properties insured under this section, the Secretary is authorized to make, and to contract to make periodic interest reduction payments on behalf of the owners of the properties but for the benefit of the residents, which shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements of this subsection.

"(2) Interest reduction payments with respect to a property shall only be made during such time as the property is operated as a rental housing and is subject to a mortgage which meets the requirements of, and is insured under, this section.

"(3) The interest reduction payments to a mortgagee by the Secretary on behalf of a property shall be in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the property owner as a mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such property owner would be obligated to pay if the mortgage were to bear interest at the rate of 4 per centum per annum.

"(4) The Secretary may include in the payment to the mortgagee such amounts, in addition to the amount computed under this subsection as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

"(5) As a condition for receiving the benefits of interest reduction payments, the owner shall operate the project in accordance with such requirements with respect to tenant eligibility and rents as the Secretary may prescribe.

"(e) The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

"(f) Prior to insuring any mortgage under this section, the Secretary shall obtain satisfactory and enforceable assurances from the mortgagor that all repairs and improvements necessary to place the underlying property in standard condition have been or will be made and that such property will be continuously maintained in standard condition.

"(g) The Secretary shall cooperate with the Secretary of Labor and the Secretary of Health, Education, and Welfare, to insure that, to the greatest extent feasible, funds appropriated under the Manpower Development and Training Act of 1962, as amended, shall be made available on a priority basis for training and employment support use in connection with improvements financed by mortgages insured under this section. The Secretary shall cooperate with the Director of the Educational Development Agency, and the Administrator of the Small Business Administration, to insure maximum utilization of minority and small business contractors in connection with improvements financed by mortgages insured under this section.

"(h) In administering the program established by this section, the Secretary shall use his best efforts to enlist the support and actual cooperation of State and local governments in establishing State or local mortgage lending funds, in providing adequate municipal services in low- and moderate-income areas, particularly in areas threatened by building abandonment, and in insuring, to the maximum extent feasible, the administration of laws and ordnances relating to existing housing stock, including building codes, housing codes, health and safety codes, zoning laws, and property tax laws, in such manner as will encourage maximum utilization of this program in accordance with the purposes herein expressed.

"(i) The Secretary shall develop and maintain full information and statistics regarding the utilization of and experiences incurred under this program, which shall include, but not be limited to, information and statistics concerning—

"(1) financial market conditions, including the interest rates, payback periods, and other terms and conditions affecting housing eligible to be financed hereunder;

"(2) the character, extent, and actual costs of repairs, renovations, and moderate housing rehabilitation undertaken hereunder;

"(3) factors affecting and statistics showing the extent of actual and potential utilization of this program;

"(4) factors affecting the processing time of applications submitted hereunder and statistics showing processing times actually experienced;

"(5) mortgage arrearages and defaults on mortgage loans insured hereunder;

"(6) abuses of the program, actual or potential, and remedial or punitive actions taken in connection therewith; and

"(7) the costs of administering this mortgage-insurance program, provided by this section.

The Secretary shall submit each year to the Congress and to the President an annual report summarizing such information. Such report shall include his analysis of the effectiveness and scope of the program and his recommendations for its improvement and greater utilization.

"(j) If the Secretary determines that the unavailability of property insurance coverage is hindering the widespread utilization of this program, he shall take all practicable steps to insure that the protections and benefits of the Urban Property Protection and Reinsurance Act of 1968 are utilized to provide adequate property insurance coverage for mortgagors and mortgagees under this program.

"(k) If the Secretary determines that widespread utilization of this program is hindered by the charging of points or discounts by mortgagees, he shall take steps to implement the Government National Mortgage Association's authority under section 305(j) of this Act to purchase and make commitments to purchase mortgages insured under this section, at a price equal to the unpaid principal amount thereof at the time of purchase, with adjustments for interest and any comparable items, and to sell such mortgages at any time at a price within the range of market prices for the particular class of mortgages involved at the time of sale as determined by the Association.

"(l) If the Secretary determines that widespread utilization of this program is hindered by delays in processing and approval of projects, he shall establish procedures to insure, to the maximum extent feasible, the expeditious processing and approval of applications for insurance hereunder, including, where necessary and appropriate, the use of procedures and practices similar to those under title I (home improvement loans).

"(m) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make interest reduction payments under contracts entered into by the Secretary under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts and payments pursuant to such contracts shall not exceed $50,000,000 per annum prior to July 1, 1975, which maximum dollar amount shall be increased by $100,000,000 on July 1, 1976, by $150,000,000 on July 1, 1977."

By Mr. JAVITS:

S. 494. A bill to amend the Immigration and Nationality Act to provide for the immigration of children of individuals suffering from Hansen's disease. Referred to the Committee on the Judiciary.

OPERATION OUTREACH

Mr. JAVITS. Mr. President, a sad situation in the Republic of Korea has been brought to the attention of a group of New Yorkers who have taken steps to provide new opportunities for a group of children. Specifically, they are the children of persons who are suffering from Hansen's disease—although they do not have the disease themselves—and as such are required to live in "leprosy villages" in Korea. While the Public Health Service assures us that these children do not themselves suffer from Hansen's disease, all opportunity for a normal life for the children is cut off as soon as their parent's affliction becomes known.

New Yorkers associated with Operation Outreach, working with the American-Korean Foundation and International Social Service have arranged for some of the children to be adopted by American families, and the Korean parents have given their consent to the adoptions, knowing that life in this country will provide a better life for their children. But, there is a roadblock in the form of the immigration laws of the United States which prohibit the entry of these children into this country for adoption by American citizens if the parents of the children are themselves living. My bill seeks to remove the impediment in this one particular case.

Mr. President, I ask unanimous consent that material explaining this program be printed at this point in the RECORD, and I send the bill to the desk for appropriate reference.

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

OUTREACH: STATEMENT OF PURPOSE

INTRODUCTION

It has been said that "prejudice is the child of ignorance." The truth of that statement has been demonstrated for centuries in the case of leprosy, a mildly contagious and easily arrested disease which nevertheless sentences its victims and their children to the severest kind of human suffering, degradation and discrimination. The prejudice against those who have leprosy has survived since Biblical times, and the fear of leprosy persists even though modern medical science now understands and can arrest and control the disease. (So strong is this prejudice that the dictionary defines the word leper as: "a person shunned for moral and social reasons.")

Today we know that a germ—and not a cure or a demon—causes leprosy. (The leprosy bacteria was first described by Dr. Gerhard A. Hansen in 1874 and leprosy is medically known as Hansen's Disease.) Leprosy is a disease which attacks the nerves and eventually robs its victims of the important warning signal of pain. In its late stages leprosy can sometimes so deaden sensation that people who have the disease wear down their fingers and toes through use. Leprosy can also produce severe deformities and cause such complications as blindness. These affects have given rise to the myth that leprosy eats away tissues and causes toes and fingers to "drop off." The truth is that all of the major complications of leprosy are preventable, and the disease can be arrested through prompt treatment.

Leprosy is one of the world's least contagious diseases—much less virulent than tuberculosis for instance. Nurses and doctors who work with leprosy patients rarely contract the disease. In fact, in the 75 years of its existence, not a single staff member of the United States Public Health Service Hospital in Carville, Louisiana, which handles leprosy patients, has contracted leprosy. Research has shown that only five percent of the world's population is susceptible to leprosy bacillus and even that five percent will only contract the disease after prolonged and close contact with an infected person. No evidence has ever been found that the disease is inherited.

But the stigma that is attached to leprosy causes many of its victims to hide their

affliction until it is too late since treatment in many countries—including the Republic of Korea—means isolation for them and for their families in squalid leprosoria or resettlement villages. Those with leprosy and those whose parents have leprosy are considered second class citizens and are cut off forever from equal opportunities in all areas of their lives: employment, education and even marriage. Segregation in resettlement villages makes prolonged contact with leprosy patients unavoidable for uninfected family members forced to live there, and a number of them may contract the disease needlessly because of being coerced into this isolation.

It can truly be said that the fear and loathing which society maintains towards those with leprosy is more dangerous and damaging and disfiguring than the leprosy bacillus itself.

The program described in the following pages aims at doing something about the intolerable conditions in which people with leprosy and their families are forced to live.

OUTREACH, a program of The American-Korean Foundation, seeks to bring children of leprosy patients to the United States for adoption. Every one of these children will be screened in Korea and will be medically followed here in the United States to assure that there is not the slightest chance that they have leprosy. By removing them from a society which discriminates against them, the individual child will benefit. In addition, the health and well-being of these children and their accomplishments in an atmosphere free of prejudice will demonstrate that the stigma against leprosy can be erased.

This is a radical, efficient and humane solution to a centuries-old problem which is causing thousands of children to suffer and denies them the realization of their full potential.

BACKGROUND

Leprosy affects in excess of 15 million of the world's people. While it is not limited to any race or geographic distribution, the greatest number of cases occur in the tropical or semi-tropical climates of Africa, Southeast Asia, South America, and the Indian continent.

In the United States the incidence is limited to approximately 3,000 cases, the majority, of which receive outpatient treatment. Leprosy is not native to the United States, and health officials say there is no documentation of a second generation of the disease in this country.

We do not know how many Koreans have leprosy which they are hiding, but some 90 resettlement villages house 35,000 known leprosy and ex-leprosy patients and thousands who are socially branded because a relative was found to have the disease.

Children of leprosy victims are able to leave the village at maturity, so long as they are free of the disease. However, the name of the leprosy village is permanently imprinted on their papers so that potential employers and the police will be able to identify them. They are forced to take the most menial of jobs and are prevented from attending Korean schools. The stigma of leprosy often extends even to marriage and restricts the possibilities of choosing a mate.

THE NEED

The Korean Ministry of Health and Social Affairs places the number of uninfected children living in leprosy villages at about 7,000. Unless a way is found to erode the leprosy barrier and free these healthy children from these villages, they will grow up bearing the stigma of leprosy and will live out their lives as second class citizens. The fear and prejudice in Korea has created a climate in which they not only have virtually no hope for a normal life.

We are gratified that so many Americans have volunteered to open their homes to a child who desperately needs help. Already more than 100 families on the Eastern Seaboard have made commitments to OUTREACH and hundreds more have inquired about the program.

The Republic of Korea's Ministry of Health and Social Affairs has demonstrated its complete cooperation by cutting the bureaucratic red tap to shorten the time required to get passports and exit visas for inter-country adoption. The Korean government's rule against single parent adoption will not apply nor will the annual quota on adoptable children.

As has been stated, the adoptive children will be examined in Korea and they will undergo semi-annual medical checkups in the United States for a period of five years in a cooperative project with the Sloan-Kettering Institute to assure their continuing good health. The United States Center for Disease Control has also enthusiastically approved the program.

The medical field will significantly benefit from the unique opportunity of studying these youngsters over a long period of time, will undoubtedly far exceed the OUTREACH program. Dr. Howard A. Rusk, Chairman Emeritus of The American-Korean Foundation, stated, "The medical and social dividends of this project, many of which we did not know about at this time, will undoubtedly far exceed the principle involved."

It is hoped that during the next two years, approximately 2,000 adoptable children in the 1–14 age group will be placed with adoptive familes. Medical processing has already begun in Korea and medical follow-up will begin in the fall of 1974 in the United States. The case studies of the first group of children are currently being processed by Traveler's Aid International Social Service of America (TAISSA) on both sides of the Pacific.

The importance of this project has been acknowledged by governments, private agencies and many dedicated individuals, all of whom are diligently working together to assure its success for the sake of the children involved and of leprosy victims in general.

LEADERSHIP

For over 20 years The American-Korean Foundation, a non-profit, non-political, nonsectarian agency, has had an abiding interest in rebuilding South Korea. The organization was founded in 1953 after two missions headed by Dr. Howard A. Rusk went to Korea to establish a United States-Korean people-to-people self-help program at the urging of President Eisenhower. Since then, The American-Korean Foundation, with the help of millions of generous Americans, has responded to the needs of the valiant Korean people with a massive outpouring of support that has amounted to $40 million in donations and gifts in kind during two decades.

OUTREACH has become a program of The American-Korean Foundation because they were the logical people to turn to for help when OUTREACH's founder, Bernice Gottlieb, decided she could no longer manage the operation of her project alone. Mrs. Gottlieb became interested in Korea when she adopted a Korean orphan in 1969. Two years later when she learned from a Korean Roman Catholic priest about the plight of the children of Korean leprosy patients, she determined to do something for these children. She spent months checking the laws, learning about the disease and visiting (at her own expense) the Korean resettlement leprosy villages. Out of her concern and her knowledge OUTREACH was born.

She received official approval for her plan from the government of the Republic of Korea and went to Carville, Louisiana, to take the missionary training course in leprosy. As the only person in her group who was neither doctor, nurse nor clergyman, she was as unique as the program she was proposing.

For some time Mrs. Gottlieb gave all her spare time to running the OUTREACH program, traveling frequently to Korea and sometimes working seven days a week to get the program going. During this time she enlisted the help and support of many distinguished experts and leaders in the field of leprosy and medicine in general. Finally, she decided she could no longer manage the work alone, and so she came to The American-Korean Foundation for assistance. Mrs. Gottlieb will continue to run the OUTREACH program under The American-Korean Foundation's auspices. She will serve as Volunteer Director for Children's Services.

For its part, The American-Korean Foundation will utilize its expertise and experience in Korea to facilitate the processing of the children. It will assist in making travel arrangements for the children, it will help administratively in the adoption procedure working with TAISSA and all other agencies who become involved in the project. The American-Korean Foundation will also solicit funds for OUTREACH as it does for its many other Korean projects.

By Mr. RIBICOFF (for himself, Mr. PERCY, Mr. METCALF, Mr. INOUYE, Mr. MONTOYA, Mr. WEICKER, and Mr. MONDALE):

S. 495. A bill to establish certain Federal agencies, effect certain reorganizations of the Federal Government, and to implement certain reforms in the operation of the Federal Government recommended by the Senate Select Committee on Presidential Campaign Activities, and for other purposes. Referred to the Committee on Government Operations.

WATERGATE REORGANIZATION AND REFORM ACT OF 1975

Mr. RIBICOFF. Mr. President, on behalf of Senators PERCY, METCALF, INOUYE, MONTOYA, WEICKER, MONDALE, and myself, I introduce the Watergate Reorganization and Reform Act of 1975. This bill, which I am reintroducing today, was originally introduced as S. 4227 by Senator Ervin and most of the present cosponsors at the close of the 93d Congress.

Mr. President, for most of the past 2 years our attention has been focused on Watergate. Hardly a day passed without the evening news carrying some new development. The rush of Watergate events drowned out almost everything else.

Fortunately, that period is now behind us. With the completion of the Watergate trial, the Nation can now devote its full attention to other areas of critical importance—energy, economy, employment.

But the fact that the Watergate period is over does not mean that the need for reform is past. Unless remedial legislation is enacted—and enacted soon—there is nothing to assure that the events of Watergate will not repeat themselves. Permanent reform is essential to prevent a recurrence.

The Senate Select Committee on Presidential Campaign Activities—the Watergate committee—emphasized this.

It was the Watergate committee—under the outstanding leadership of Senator Ervin—that uncovered and unrav-

eled most of the Watergate abuses. The Nation owed an enormous debt of gratitude to the committee, and particularly to Senator Ervin, for bringing these abuses to public attention.

The culmination of the Ervin committee's work was a massive report detailing all of its major findings. This report will undoubtedly rank as a major historical document.

At the conclusion of their report, the Ervin committee recommended enactment of a series of reforms to prevent further abuses of executive power. These recommendations, with the exception of the specific campaign reform provisions which were enacted last year in the Federal Election Campaign Act Amendments, are all encompassed in the bill we are introducing today.

Title I of the Watergate Reorganization and Reform Act of 1975 creates two important, new Government offices. Section 101 establishes a permanent office of the Public Attorney. The office would be independent of the Justice Department and the entire executive branch. The Public Attorney would be nominated for a 5-year term by three retired court of appeals judges designated by the Chief Justice of the United States. The appointment would be subject to Senate confirmation. The office of the Public Attorney would have jurisdiction to investigate and prosecute: First, allegations of corruption in the executive branch; second, cases referred by the Attorney General because of actual or potential conflicts of interest; third, criminal cases referred by the Federal Elections Commission; and fourth, allegations of violations of Federal election laws.

In addition to enhancing criminal law enforcement within the executive branch and in Federal elections, the mere existence of a vital office of the Public Attorney would deter the kind of wrongful acts that occurred in the Watergate scandal. Because of this deterrent effect, it is preferable to create this office now, rather than waiting until some future crisis when political emotions may be at flood tide. Jurisdictional disputes between the Public Attorney and the Attorney General should not be frequent or severe. On the contrary, the office of Public Attorney could be legitimately helpful to the Justice Department, particularly where a proper exercise of discretion not to prosecute by the Public Attorney might otherwise give rise to public suspension of a coverup by the Attorney General. Because the Public Attorney would be chosen in the first instance by the judiciary—a common pattern in some States including my own home State of Connecticut—and because the Public Attorney must agree in writing not to hold elective or appointive Federal office for 5 years following his term of service, the office of Public Attorney would greatly encourage equal enforcement of the laws without regard to political influence.

Section 102 of the bill incorporates Senator MONDALE'S proposal—S. 2569 in the 93d Congress—to establish a Congressional Legal Service under the direction of a Congressional Legal Counsel. The Counsel would be appointed by the Speaker of the House and the President pro tempore of the Senate from among recommendations of the majority and minority leaders in both Houses. Either House of Congress, any congressional committee, 3 Senators or 12 House Members can ask the Congressional Legal Counsel to render advisory legal opinions as to whether a President's actions are within the bounds of his authority.

The same subdivisions of Congress or number of Members of Congress may instruct the Congressional Legal Counsel: First, to advise private parties bringing suit against the executive branch; second, to intervene or appear as amicus curiae on behalf of private parties; and, third, to represent Congress or any of its agents in any action to which they are a party or in which their official action is in issue. Finally, either House, and congressional committee, 6 Senators or 24 House Members can cause the Congressional Legal Counsel to bring civil actions against officers of the executive branch to enforce an advisory opinion of the Congressional Legal Service.

The creation of its own litigation arm would allow Congress to protect its interests in court. By guarding against the executive usurpation of legislative functions through such devices as executive privilege and the impoundment of duly appropriated funds, the Congressional Legal Service would help preserve the separation of powers between the executive and legislative branches.

Title II of the Watergate Reorganization and Reform Act creates new rules of behavior for executive branch officers and personnel. Section 201 would require the President and the Vice President to file each year a public statement of: First, all income and property taxes paid; second, the amount and source of each item of income exceeding $100; third, each asset or liability in excess of $1,000; fourth, any transaction in securities, commodities, or real property in excess of $1,000; and, fifth, any expenditure made by another individual for the benefit of the President, Vice President, or their spouses.

Section 202, in its primary provision, prohibits any Government official whose appointment required confirmation by the Senate, or who is on the payroll of the Executive Office of the President, from participating in the solicitation or receipt of campaign contributions during his or her period of service and for 1 year thereafter. Such a statute would disallow the transfer of administration officials to a campaign situation where they could solicit funds in a potentially coercive manner from persons over whom they had previously exercised governmental and regulatory powers.

Coverage of the Hatch Act is extended to the Department of Justice, including the Attorney General, in section 203. Obviously, this provision is designed to further the separation of law enforcement from partisan politics.

Section 204 prohibits employees of any agency in the Executive Office of the President from engaging in any investigative or intelligence-gathering activities. Such secret investigative activities have posed a serious threat in the recent past to fundamental individual rights.

Title 18, United States Code, section 595 presently makes it illegal to use the awarding of Federal grants and loans to affect Federal elections. Section 205 expands this coverage to include the use of any other Federal payments or contracts for such a purpose, and upgrades the crime to a felony.

Sections 206 and 207 limit access by White House officials to Internal Revenue Service records. All requests for information coming from anyone in the Executive Office of the President, including the President, must be reported yearly by the Secretary of the Treasury to the appropriate congressional oversight committees. Income tax returns would not be open to the President or the officers of his Executive Office as a matter or course. Upon a written request, the Secretary of the Treasury may, in his discretion, disclose only the name of a person and the general nature of an investigation if he determines that further disclosure would prejudice the rights of a person to impartial administration of the tax laws. These new rules should discourage the use of the IRS for political purposes.

Title III of the Watergate Reorganization and Reform Act deals with congressional activities. Section 301 gives the District Court for the District of Columbia jurisdiction to enforce congressional subpenas, and authorizes Congress to bring such suits. Section 302 eliminates as a defense to perjury that it occurred when a quorum of a committee was not present, and makes title 18 United States Code, section 1623 (prohibiting false declarations) applicable to testimony before Congress. Senate committee hearings are required to be open to the public under section 303, except that they may be closed due to considerations affecting national security, the reputation of a witness, confidentiality protected by law, or the requirements for a productive investigation.

Title IV addresses Federal election campaign activities. Section 401 increases the maximum tax credit for political contributions to $25—or $50 on a joint resturn—and abolishes tax deductions for such contributions. The penalty for illegal contributions by corporations and labor organizations is increased in section 402. Section 403 prohibits unlawful use of nonpublic campaign documents, and imposes a $5,000 fine or 5 years jail sentence for violations. Section 404 creates several new criminal provisions including: First, a prohibition against the use of campaign funds to finance violations of the Federal election laws; second, a prohibition against political contributions by any person receiving a Federal grant, loan, or subsidy in excess of $5,000; third, a prohibition against any person seeking or encouraging another person to seek employment in a campaign for the purpose of interfering with or spying on it; fourth, a prohibition against making false statements about my candidate for

Federal office; and, fifth, the establishment of a separate offense for the commission of a felony to interfere with or affect the outcome of a Federal election. Finally, section 405 of title IV makes it a crime to defraud a Government department or agency.

Mr. President, I hope the Senate will seize the opportunity to act quickly on this legislation while Watergate is still fresh in our minds. For my part, as chairman of the Government Operations Committee, I pledge to move as soon as we can to hold hearings and act on this measure.

Mr. President, I ask unanimous consent that the full text of the Watergate Reorganization and Reform Act of 1975 be printed in the RECORD immediately following the conclusion of my remarks.

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

S. 495

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 "Watergate Reorganization and Reform Act of 1975".

TITLE I—ESTABLISHMENT OF GOVERNMENT OFFICES

OFFICE OF PUBLIC ATTORNEY

SEC. 101. (a) Title 28, United States Code, is amended by adding after chapter 37 the following new chapter:

"CHAPTER 38.—PUBLIC ATTORNEY

"Sec.
"581. Establishment of Office of Public Attorney.
"582. Jurisdiction.
"583. Powers.
"584. Notification to Attorney General of initiation of prosecution.
"585. Administrative provisions.

"§ 581. Establishment of Office of Public Attorney

"(a)(1) There is established as an independent establishment of the Government the Office of the Public Attorney (hereinafter referred to as the 'Office'). The Office shall be under the direction and supervision of the Public Attorney who shall be appointed in accordance with the provisions of paragraph (2).

"(2) The Chief Justice of the United States shall designate three retired courts of appeals judges to select and appoint the Public Attorney. The three retired courts of appeals judges so designated shall appoint, by and with the advice and consent of the Senate, the Public Attorney.

"(b) The Public Attorney shall serve for a term of five years and may be reappointed for one additional term. Any vacancy in the Office shall be filled in the same manner as the original appointment.

"(c) A retired judge designated by the Chief Justice to select and appoint the Public Attorney shall not, by reason of such service, receive any payment from the United States for such service. No retired judge who so participates in the selection and appointment of the Public Attorney shall participate in any trial or appellate proceedings in which the Public Attorney or any employee of the Office is a party.

"(d) No individual may serve as Public Attorney unless such individual has agreed in writing not to occupy or assume or discharge the duties of any office under the United States, vacancies in which are filled by popular election, or to accept any other employment in the Government, for a period of five years after the date on which such individual's services as Public Attorney are terminated.

"§ 582. Jurisdiction

"(a) The Public Attorney shall investigate and prosecute (1) allegations of corruption in the administration of the laws by the executive branch of the Government; (2) cases referred by the Attorney General because of actual or potential conflicts of interest; (3) criminal cases referred to him by the Federal Election Commission; and (4) allegations of violations of Federal laws relating to campaigns and elections for elective office.

"(b) The Public Attorney shall notify the Attorney General of the initiation or termination of an investigation or proceeding with respect to any matter within his jurisdiction under subsection (a) of this section. After the receipt of any such notification and while any investigation or proceedings to which any such notification relates is pending, the Attorney General shall, and shall cause other divisions of the Department of Justice to, refrain from conducting any investigation or prosecution with respect to the subject matter of such notification or any related or overlapping matter, and to refrain from taking any related action with respect thereto, except to the extent that the Public Attorney has given prior written approval thereof.

"(c) If at any time the Attorney General believes or has reason to believe that any investigation conducted under his supervision or is likely to involve any matter that would constitute a conflict of interest or that would otherwise fall within the jurisdiction of the Public Attorney under subsection (a) of this section, he shall promptly notify the Public Attorney thereof and of the reasons for such belief. Upon receipt of any such notification, the Public Attorney may in his discretion—

"(1) assume sole responsibility for any further conduct of such investigation;

"(2) participate with the Attorney General in any further conduct of such investigation; or

"(3) defer to the ongoing investigation under the supervision of the Attorney General in which case the Attorney General shall keep the Public Attorney fully informed as to the further progress of any such investigation.

"§ 583. Powers

"The Public Attorney shall, with respect to any matter within his jurisdiction under section 582 of this title, have full power and authority, consistent with the Constitution of the United States—

"(1) to conduct such investigation thereof as he deems appropriate;

"(2) to obtain and review such documentary, testimonial, or other evidence or information as he deems material thereto as may be available from any source, and, if in the possession of an agency of the United States (as defined in section 6001(1) of title 18), without regard to the provisions of section 552(b) (with the exception of paragraph (6) thereof) of title 5;

"(3) to issue appropriate instructions to the Federal Bureau of Investigation and other domestic investigative agencies of the United States (which instructions shall be treated by the heads of such agencies as if received from the Attorney General) for the collection and delivery solely to the office of the Public Attorney of information or evidence relating to such investigation, and for the safeguarding of the integrity and confidentiality of all files, records, documents, physical evidence, and other materials obtained or prepared by the Public Attorney;

"(4) to receive appropriate national security clearances;

"(5) to issue subpenas to such persons as he may deem necessary to obtain and review and initiate or defend appropriate proceedings in any court of the United States of competent jurisdiction relating to compliance with any such subpena;

"(6) to conduct proceedings before grand juries;

"(7) to make application to any court of the United States of competent jurisdiction in a manner consistent with part V of title 18 for a grant of immunity to any witness;

"(8) to frame, sign, and file criminal indictments and informations, and prosecute criminal proceedings in the name of the United States, which proceedings shall, except as otherwise provided for in this chapter, comply with the requirements of law governing the conduct of such proceedings;

"(9) to conduct such civil proceedings as he may deem appropriate to enforce any provision or obtain any remedy for violation of any law he is charged with enforcing; and

"(10) notwithstanding any other provision of law, to exercise all other powers as to the conduct of criminal investigations, prosecutions (including prosecutions for prejury committed in the course of any investigation or judicial or legislative hearing with respect to any matter within his jurisdiction), civil proceedings, and appeals, within his jurisdiction, that would otherwise be vested exclusively in the Attorney General and the United States attorney under the provisions of chapters 31 and 35 of this title and any regulation promulgated pursuant to either such chapter, and act as attorney for the Government in such investigations, prosecutions, proceedings, and appeals.

"§ 584. Notification to Attorney General of initiation of prosecution

"(a) The Public Attorney may sign and file any indictment returned by a grand jury convened at his request or under his direction and may sign and file any criminal information, with respect to any matter within his jurisdiction under section 582 of this title, except that in each such instance the Pulbic Attorney shall give the Attorney General five days' prior written notice thereof.

"(b) If the Attorney General of the United States disapproves the filing of any indictment or information, or any subsequent action or position taken by the Public Attorney in the course of any judicial proceeding pursuant thereto, the Attorney General shall be entitled to appear and present his views amicus curiae to any court before which any such proceeding is pending.

"§ 585. Administrative provisions

"(a) The Public Attorney may appoint, fix the compensation, and assign the duties of such personnel as may be necessary to carry out his duties and functions under this chapter. The Public Attorney may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5.

"(b) The Public Attorney may from time to time make such provisions as he considers appropriate authorizing the performance by any other officer or employee of the Office of any function of the Public Attorney.

"(c) The Public Attorney is authorized—

"(1) to adopt, amend, and repeal such rules and regulations as may be necessary to carry out his duties and functions under this chapter; and

"(2) to utilize, with their consent, the services, equipment, personnel, and facilities of any department or agency of the United States on a reimbursable basis.

"(d) The Public Attorney may, in his discretion, appoint special assistants to discharge his responsibilities with respect to a particular matter or matters within his jurisdiction.

"(e) Upon request made by the Public

Attorney each Federal department and agency is authorized and directed to make its services, equipment, personnel, facilities, information (including suggestions, estimates, and statistics) available to the greatest practicable extent consistent with the laws, to the Public Attorney in the performance of his duties and functions.".

(b) Section 202 of title 18, United States Code, is amended by redesignating subsection (b) as subsection (c), and adding after subsection (a) the following new subsection:

"(b) As used in sections 205, 207, 208, and 209 of this title the term 'officer or employee' includes the Public Attorney and members of his staff; and as used in section 201 of this title the term 'public official' includes the Public Attorney and professional members of his staff.".

(c)(1) Section 1905 of title 18, United States Code, is amended—

(A) by inserting "(a)" immediately before "Whoever"; and

(B) by adding at the end thereof the following new subsection:

"(b)(1) It shall be unlawful for any officer or employee of the United States or of any department or agency thereof, or the member of any grand jury convened at the request or under the direction of the Public Attorney who, in the course or under color of his duties as such officer, employee, or member has had any direct contact with an employee or officer lawfully participating in an investigation being conducted by the Public Attorney pursuant to chapter 39 of title 28 by virtue of which such person has come into the possession of any evidence or information obtained by or in the possession of the Public Attorney or the product of an investigation conducted by the Public Attorney pursuant to such chapter, to disclose, or to cause the disclosure, or in any manner to further the disclosure, of such evidence, information, or product to any person other than an officer or employee of the Office of the Public Attorney or the Department of Justice, or of a court in which a grand jury convened at the request or under the direction of the Public Attorney is proceeding, or (to the extent otherwise provided for by law) to a person who is likely to or has become the subject of an investigation by the Public Attorney, except that the Public Attorney may make such public disclosure as is permitted by law of such information as he deems necessary, appropriate, or required by law in connection with a proceeding instituted by him.

"(2) Whoever violates any provision of paragraph (1) of this subsection shall be subject to a civil penalty of not less than $1,000 or more than $25,000 and, if the violation is willful, shall be fined not more than $50,000 or imprisoned for one year, or both.

"(3) Nothing in this subsection shall be construed to prohibit the Public Attorney from taking any action he is authorized to take under chapter 39 of title 28, or to preclude any defendant in a criminal case from obtaining any information concerning grand jury proceedings or in the possession of a prosecuting official of the United States to which he would otherwise by law be entitled.".

(2)(A) The caption of section 1905 of such title is amended to read as follows:

"§ 1905. Disclosure of confidential information generally and with respect to investigations or proceedings conducted by the Public Attorney"

(B) The analysis of chapter 93 of such title is amended by inserting immediately before the period at the end of item 1905 the following: "and with respect to investigations or proceedings conducted by the Public Attorney".

(d) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following:

"(22) Public Attorney.".

(e) The Administrator of General Services shall provide the Office of the Public Attorney with such offices and support facilities as may be necessary, and such additional offices and support facilities as may from time to time be required to carry out the provisions of this Act, except that such offices and facilities shall be physically separate from the office of the Department of Justice or of any division thereof.

CONGRESSIONAL LEGAL SERVICE

SEC. 102. (a) For purposes of this section—

(1) "Member of Congress" means a Senator, Representative, Delegate, or Resident Commissioner;

(2) "Member of the House of Representatives" includes a Representative, Delegate, or Resident Commissioner;

(3) "State" includes any territory or possession of the United States; and

(4) "deferral of budget authority" shall have the same meaning as provided in the Congressional Budget and Impoundment Control Act of 1974 (88 Stat. 297).

(b)(1) There is established within the Congress a Congressional Legal Service, which shall be under the direction and control of the Congressional Legal Counsel. The Congressional Legal Counsel shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate from among recommendations submitted by the majority and minority leaders of the House of Representatives and the Senate. Such appointment shall be made without regard to political affiliation and solely on the basis of his fitness to perform the duties of his office. The Congressional Legal Counsel shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) The Congressional Legal Counsel may appoint and fix the compensation of such Assistant Legal Counsels and other personnel as may be necessary to carry on the work of his office. All such appointments shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of their offices.

(3) The Congressional Legal Counsel shall promulgate for his office such rules and regulations as may be necessary to carry out the duties imposed upon him by this Act. He may delegate authority for the performance of any such duty to an officer or employee of the Congressional Legal Service. No person serving as an officer or employee of such office may engage in any other business, vocation, or employment while so serving.

(4) The Congressional Legal Counsel shall cause a seal of office to be made for his office, of such design as the Speaker of the House of Representatives and the President pro tempore of the Senate shall approve, and judicial notice shall be taken thereof.

(c)(1) It shall be the duty of the Congressional Legal Counsel—

(A) to render, upon request of either House of Congress, a joint committee of Congress, any committee of either House of Congress, at least three Senators, or twelve Members of the House of Representatives, legal opinions upon questions arising under the Constitution and laws of the United States, including but not limited to, whether—

(i) a request for information or inspection of a record or other matter under section 552 of title 5, United States Code, was properly denied by an agency of the United States Government;

(ii) a nomination, or an agreement with a foreign country or regional or international organization, should have been submitted to the Senate for its advice and consent;

(iii) an activity has been undertaken or continued, or not undertaken or continued, by the executive branch of the United States Government in violation of the law or the Constitution or without any required authorization of law;

(iv) executive privilege exists, and, if so, whether it has been properly asserted; and

(v) deferrals of budget authority have been made in accordance with law;

(B) upon the request of either House of Congress, a joint committee of Congress, any committee of either House of Congress, at least three Senators, or at least twelve Members of the House of Representatives—

(i) to advise and to consult and cooperate with parties bringing civil actions against officers and employees of the executive branch of the United States Government or any agency or department thereof, with respect to their execution of the laws, and the Constitution of the United States; and

(ii) to intervene or appear as amicus curiae on behalf of persons making such request in any action pending in any court of the United States or of a State or political subdivision thereof, in which there is placed in issue the constitutionality or interpretation of any law of the United States, or the validity of any official proceeding of, or official action taken by, either House of Congress, a joint committee of Congress, any committee of either House of Congress, or a Member of Congress, or any officer, employee, office, or agency of the Congress;

(C) to represent, upon request, either House of Congress, a joint committee of Congress, any committee of either House of Congress, a Member of Congress, or any officer, employee, office, or agency of the Congress in any legal action pending in any court of the United States or of a State or political subdivision thereof to which such House, joint committee, committee member, officer, employee, office, or agency is a party and in which there is placed in issue the validity of any official proceeding of, or official action taken by, such House, joint committee, committee member, officer, employee, office, or agency; and

(D) if an opinion has been rendered in accordance with subparagraph (A) of this paragraph, and upon request of either House of Congress, a joint Committee of Congress, any committee of either House of Congress, at least six Senators, or at least twenty-four Members of the House of Representatives, to bring civil actions, without regard to the sum or value of the matter in controversy, in a court of the United States to require an officer or employee of the executive branch of the United States Government, or any agency or department thereof, to act in accordance with the Constitution and laws of the United States as interpreted in such opinion.

(2) Upon receipt of written notice from the Congressional Legal Counsel to the effect that he has undertaken, pursuant to paragraph (1)(C) of this subsection, to perform any such specified representational service with respect to any designated action or proceeding pending or to be instituted, the Attorney General shall be relieved of responsibility and shall have no authority to perform such service in such action or proceeding except at the request or with the approval of the Congressional Legal Counsel.

(d)(1) Permission to intervene or to file a brief amicus curiae under subsection (c)(1)(B)(ii) of this section shall be of right, without regard to the requirements for standing as set forth in any statutes, rules, or other requirement of standing, and may be denied by a court only upon an express finding that such intervention or filing is untimely and would significantly delay the pending action.

(2) Where an actual case or controversy exists, persons making requests under subsection (c)(1)(D) of this section shall have the right to obtain judicial review of the conduct in question without regard to the requirements for standing as set forth in any statutes, rules, or other requirement of standing.

(3) For the purpose of all proceedings incident to the trial and review of any action described by paragraph (1)(C) of subsection (c) with respect to which the Congressional Legal Counsel has undertaken to provide representational service, and has so notified the Attorney General, the Congressional Legal Counsel shall have all powers conferred by law upon the Attorney General, any subordinate of the Attorney General, or any United States attorney.

(4) The Congressional Legal Counsel, or any attorney of his office designated by him for that purpose, shall be entitled for the purpose of performing duties imposed upon him pursuant to this section to enter an appearance in any such proceeding before any court of the United States without compliance with any requirement for admission to practice before such court, except that the authorization conferred by this subsection shall not apply with respect to the admission of any person to practice before the United States Supreme Court.

(e) All legal opinions rendered by the Congressional Legal Counsel under subsection (c)(1)(A) of this section shall be published and made available for public inspection under such rules and regulations as the Congressional Legal Counsel shall promulgate.

(f)(1) Section 3210 of title 39, United States Code, is amended—

(A) by inserting immediately after "respective terms of office" the following: "the Congressional Legal Counsel,"; and

(B) by inserting immediately before "or Legislative Counsel" the following: "Congressional Legal Counsel,"

(2) Section 3216(a) of such title is amended by inserting immediately before "and Legislative Counsel" the following: "Congressional Legal Counsel,".

AUTHORIZATION OF APPROPRIATIONS

SEC. 103. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 101 of this title.

(b) There are authorized to be appropriated to the Office of the Congressional Legal Counsel such sums as may be necessary for the performance of the duties of the Congressional Legal Counsel under section 102 of this title. Amounts so appropriated shall be disbursed by the Secretary of the Senate on vouchers approved by the Congressional Legal Counsel.

TITLE II—GOVERNMENT PERSONNEL

FINANCIAL DISCLOSURE REQUIREMENTS FOR PRESIDENT AND VICE PRESIDENT

SEC. 201. (a) An individual who holds the Office of President or Vice President at any time during the year shall file a report with the Comptroller General, not later than May 15 of the following year, containing a full and complete statement of—

(1) the amount of each tax paid by the individual, or by the individual and the individual's spouse filing jointly, for the preceding calendar year, and for purposes of this paragraph "tax" means any Federal, State, or local income tax and any Federal, State, or local property tax;

(2) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received from his spouse or any member of his immediate family) received by him or by him and his spouse jointly during the preceding calendar year which exceeds $100 in amount or value, including any fee or other honorarium received by him for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication, and the monetary value of subsistence, entertainment, travel, and other facilities received by him in kind;

(3) the identity of each asset held by him, or by him and his spouse jointly which has a value in excess of $1,000, and the amount of each liability owed by him or by him and his spouse jointly, which is in excess of $1,000 as of the close of the preceding calendar year;

(4) any transaction in securities of any business entity by him or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year if the aggregate amount involved in transactions in the securities of such business entity exceeds $1,000 during such year;

(5) all transactions in commodities by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year if the aggregate amount involved in such transactions exceeds $1,000;

(6) any purchase or sale, other than the purchase or sale of his personal residence, of real property or any interest therein by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction, during the preceding calendar year if the value of property involved in such purchase or sale exceeds $1,000; and

(7) any expenditure made by another individual for the personal benefit of him or his spouse.

(b) Reports required by this section shall be in such form and detail as the Comptroller General may prescribe.

(c) All reports under this section shall be maintained by the Comptroller General as public records, which, under such reasonable rules as he shall prescribe, shall be available for inspection by members of the public.

(d) As used in this section—

(1) The term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954.

(2) The term "security" means security as defined in section 2 of the Securities Act of 1933 (15 U.S.C. 77b).

(3) The term "commodity" means commodity as defined in section 2 of the Commodity Exchange Act (7 U.S.C. 2).

(4) The term "transactions in securities or commodities" means any acquisition, holding, withholding, use, transfer, or other disposition involving any security or commodity.

(5) The term "immediate family" means the child, parent, grandparent, brother, or sister of an individual, and the spouses of such persons.

(e) The first report required under this section shall be filed thirty days after the date of enactment of this Act if such date occurs after May 15 of any calendar year.

PROHIBITING CAMPAIGN SOLICITATIONS BY APPOINTEES CONFIRMED BY THE SENATE AND EXECUTIVE OFFICE PERSONNEL

SEC. 202. (a) Section 7323 of title 5, United States Code, is amended to read as follows:

"§ 7323. Political contributions; prohibition

"(a) An employee in an executive agency (except an employee to whom subsection (b) of this section applies) may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a thing of value for political purposes.

"(b) An employee in an executive agency who is appointed by the President, by and with the advice and consent of the Senate, or is paid from the appropriation for the Executive Office of the President may not request or receive from anyone a thing of value for political purposes at any time while he is such an employee and for a one-year period occurring immediately after each time he is no longer so employed.

"(c) An employee who violates this section shall be removed from the service.".

(b) Section 602 of title 18, United States Code, is amended—

(1) by inserting the subsection designation "(a)" immediately before "Whoever"; and

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

"(b) Any officer or employee of the United States who requests or receives from anyone a thing of value for political purposes in violation of section 7323(b) of title 5 shall be fined not more than $5,000 or imprisoned not more than three years or both.".

APPLICATION OF HATCH ACT TO DEPARTMENT OF JUSTICE

SEC. 203. Section 7324(d) of title 5, United States Code, is amended—

(1) by inserting in clause (2), immediately after "Executive department", the following: "(other than the Department of Justice)"; and

(2) by inserting in clause (3), immediately after "an employee", the following: "who is (A) not an employee of the Department of Justice, and (B)".

INTELLIGENCE ACTIVITIES BY PERSONNEL OF THE EXECUTIVE OFFICE OF THE PRESIDENT

SEC. 204. (a) Chapter 2 of title 3, United States Code, is amended by adding at the end thereof the following:

"§ 112. Investigative and intelligence functions

"Any individual who is employed by or detailed to any agency of the Executive Office of the President, including the White House Office, who is compensated from appropriated funds, shall not, directly or indirectly, engage in any investigative or intelligence gathering activity concerning national or domestic security unless specifically authorized to do so by statute.".

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"112. Investigative and intelligence functions.".

INTERFERENCE WITH ELECTIONS BY GOVERNMENT EMPLOYEES

SEC. 205. (a) Section 595 of title 18, United States Code is amended—

(1) by striking out "loans or grants" in the first paragraph and inserting in lieu thereof the following: "loans, grants, subsidies, or any other payments, including payments made under a contract,"; and

(2) by striking out "$1,000" and "one year" in the first paragraph and inserting in lieu thereof "$25,000" and "five years", respectively.

(b) Section 600 of such title is amended by striking out "$1,000" and "one year" and inserting in lieu thereof "$25,000" and "five years", respectively.

DISCLOSURE OF REQUEST FOR TAX AUDIT

SEC. 206. (a) Subchapter A of chapter 78 of the Internal Revenue Code of 1954 (relating to examination and inspection) is amended by redesignating section 7609 as 7610, and by inserting after 7608 the following new section:

"§ 7609. Disclosure of certain requests for investigations

"(a) General rules.

"As soon as is practical after the beginning of each calendar year, the Secretary or his delegate shall make a report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Internal Revenue Taxation which describes each request, direct or indirect, received by the Secretary or his delegate during the preceding calendar year from an officer, including the President, or employee of the Executive Office of the President, including the White House Officer, for information or an investigation with respect to the liability for tax of any taxpayer. Such report shall include—

"(1) the name and office of each officer or employee who makes such a request,

"(2) the name of the taxpayer who is the subject of each request, and

"(3) a description of any action which the Secretary or his delegate took with respect to such taxpayer as a result of such request.

"(b) Requests from Executive Office of the President.

"All such requests made by the President or an officer or employee of the Executive Office of the President, including the White House Office, shall be in writing and shall be maintained on file by the Secretary.

"(c) Limitation of information disclosure.

"Pursuant to such requests, the Secretary shall disclose only the name of a person or group and the general nature of an investigation if he determines that further disclosure will prejudice the rights of the person or group or the effective and impartial administration of this title."

(b) The table of sections for such subchapter A is amended by striking out the item relating to section 7609 and inserting in lieu thereof the following:

"Sec. 7609. Disclosure of certain requests for investigation.

"Sec. 7610. Cross references.".

ACCESS TO TAX RETURNS

SEC. 207. Section 6103(a) of the Internal Revenue Code of 1954 (relating to publicity of returns and disclosure of information as to persons filing income tax returns) is amended by—

(1) striking out "upon order of the President and" and "approved by the President" in paragraph (1),

(2) striking out "the President" in paragraph (2) and inserting in lieu thereof "the Secretary or his delegate", and

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

"(4) Except as provided in section 7609 (relating to disclosure of certain requests for investigations), returns referred to in paragraphs (1) and (2) shall not be open to inspection or examination by the President, the Vice President, or any officer or employee of the Executive Office of the President.".

TITLE III—CONGRESSIONAL ACTIVITIES

JURISDICTION TO HEAR CERTAIN CIVIL ACTIONS BROUGHT BY THE CONGRESS

SEC. 301. (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Congressional actions

"(a) The District Court for the District of Columbia shall have original jurisdiction, without regard to the sum or value of the matter in controversy, over any civil action brought by either House of Congress, any committee of such House, or any joint committee of Congress, to enforce or secure a declaration concerning the validity of any subpena or order issued by such House or committee, or by any subcommittee of such committee, to any officer, including the President and Vice President, or any employee of the executive branch of the United States Government to secure the production of information, documents, or other materials.

"(b) Either House of Congress, any committee of such House authorized by such House to bring suit, or any joint committee of Congress authorized by Congress to bring suit, in addition to any other available remedies, may commence and prosecute a civil action under subsection (a) in its own name or in the name of the United States in the District Court for the District of Columbia to enforce or secure a declaration concerning the validity of any subpena or order issued by such House or committee, or by any subcommittee of such committee, against any officer, including the President and Vice President, or any employee of the executive branch of the United States Government to secure the production of information, documents, or other materials.

"(c) Any House or committee commencing or prosecuting an action pursuant to this section may be represented in such action by such attorneys as it may designate.".

(b) The analysis of such chapter 83 is amended by adding at the end thereof the following new item:

"1364. Congressional actions.".

PERJURY BEFORE CONGRESSIONAL COMMITTEES

SEC. 302. (a) Section 1621 of title 18, United States Code, is amended by adding at the end thereof the following new sentence: "It is not a defense to an action brought under this section that the statement or declaration was made at a time when a quorum of the tribunal, where such tribunal is both Houses or either House of Congress, any committee or subcommittee of either House of Congress, or any joint committee, or subcommittee thereof, of Congress was not present if the oath was properly administered and taken.".

(b)(1) Section 1623 of title 18, United States Code is amended—

(A) once in subsection (a), twice in subsection (c), and once in subsection (d) by inserting immediately after "ancillary to" the following: "the Congress or to"; and

(B) by adding at the end thereof the following new subsection:

"(f) As used in this section, 'proceeding before or ancillary to the Congress' includes a proceeding before both Houses or either House of Congress, any committee or subcommittee of either House of Congress, or any joint committee, or subcommittee thereof, of Congress.".

(2) The caption of such section is amended by inserting "Congress or a," immediately after "before".

(3) The analysis of chapter 79 of such title is amended by inserting "Congress or a," immediately after "before" in item 1623.

TESTIMONY BEFORE SENATE COMMITTEES

SEC. 303. Section 133A(b) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 190a–1(b)), is amended to read as follows:

"(b) Each hearing conducted by each standing, select, or special committee of the Senate (except the Committee on Appropriations) shall be open to the public except (1) when the committee determines that the testimony to be taken at that hearing may relate to a matter of national security, may tend to reflect adversely on the character or reputation of the witness or any other individual, or may divulge matters deemed confidential under other provisions of law or Government regulation, or (2) when the committee determines that the requirements of efficient and productive investigation require that the meeting be closed and that the investigation would be materially harmed if a regimen of confidentiality were not imposed. Whenever any such hearing is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee may adopt."

TITLE IV—FEDERAL ELECTION CAMPAIGN ACTIVITIES, CONTRIBUTIONS, AND CRIMINAL SANCTIONS

FEDERAL TAX INCENTIVES FOR CAMPAIGN CONTRIBUTIONS

SEC. 401. (a)(1) Section 41(a) of the Internal Revenue Code of 1954 (relating to contributions to candidates for public office) is amended by striking out "one-half" and inserting in lieu thereof "the sum".

(2) Section 41(b)(1) of such Code (relating to maximum credit) is amended to read as follows:

MAXIMUM CREDIT.—The credit allowed by subsection (a) for a taxable year is limited to $25 ($50 in the case of a joint return under section 6013).".

(3)(A) Section 218 of such Code (relating to deduction for contributions to candidates for public office) is repealed.

(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 218 and inserting in lieu thereof the following:

"Sec. 218. Repealed.".

(b) The amendments made by this section apply to contributions made after December 31, 1974.

PENALTY FOR ILLEGAL CAMPAIGN CONTRIBUTIONS

SEC. 402. The second paragraph of section 610 of title 18, United States Code, is amended by striking out all after the first semicolon and inserting in lieu thereof the following: "and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation or labor organization as the case may be, and any person who accepts or receives any contribution, in violation of this section, shall be fined not more than $50,000 or imprisoned not more than two years, or both.".

UNLAWFUL USE OF CAMPAIGN MATERIALS

SEC. 403. (a) Section 612 of title 18, United States Code, is amended—

(1) by inserting "(a)" immediately before the text of such section; and

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

"(b) Whoever embezzles, steals, or by fraud or deception obtains from any individual who has publicly declared his intent to seek nomination for election, or election, to any Federal office in an election or has caused or permitted his intention to do so to be publicly declared, any campaign materials, documents, or papers which are not available for public dissemination and which belong to, or are in the custody of, any such person shall be fined not more than $5,000, or imprisoned not more than five years, or both.".

(b)(1) The caption of such section is amended by adding at the end thereof the following: "and theft of campaign materials".

(2) The analysis of chapter 29 of such title is amended by inserting immediately before the period in the item relating to section 612 a semicolon and the following: "unlawful use of campaign materials.".

CRIMINAL SANCTIONS GENERALLY

SEC. 404. (a) Chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 618. Use of funds to finance violation of provisions of Federal election laws

"No person may make any expenditure, payment of money, or transfer of other property to compensate another person for violating any provision of this chapter or of any other law of the United States relating to elections, or to compensate any other person for engaging in any activity which the individual making the expenditure, payment, or transfer knows, or has reason to know, will probably result in a violation of any such provision. Violation of the provisions of this section is punishable by a fine of not to exceed $25,000, imprisonment for not to exceed five years, or both.

"§ 619. Contributions by certain other recipients of Federal funds

"(a) No person who receives one or more grants, loans, or subsidy payments in excess of $5,000, singly or in the aggregate, in any calendar year from funds appropriated by the Congress may make a contribution during that year to any other person for any political purpose. No person may solicit a contribution from any person to whom the preceding sentence applies during any calendar year during which he is prohibited, on account of the application of such sentence, from making a contribution.

"(b) For purposes of this section, each officer or director of a corporation which receives such grants, loans, or other subsidy payments is considered to have received the entire amount of grants, loans, or other subsidy payments received by the corporation during the calendar year.

"(c) Violation of the provisions of this section is punishable by a fine of not more than $5,000, imprisonment for not more than five years, or both.

"§ 620. Fraudulent infiltration of Federal election campaigns for espionage and sabotage purposes

"Whoever—

"(1) obtains employment, voluntary or paid, in a campaign of any person who has publicly declared his intent to seek nomination for election, or election, to Federal office in any election by false pretenses, misrepresentation, or any other fraudulent means for the purpose of interfering with, spying on, or obstructing any campaign activity of such person; or

"(2) causes any person to obtain employment, voluntary or paid, in any such campaign for such purpose;

shall be fined not more than $5,000, or imprisoned not more than five years, or both.

"§ 621. Misrepresentation of a candidate for elective office

"Whoever willfully makes any false, fictitious, or fraudulent statements or representations that such person represents any person who has publicly declared his intention to seek nomination for election, or election, to Federal office in any election or has caused or permitted his intention to do so to be publicly declared, for the purpose of interfering with any such election, shall be fined not more than $5,000, or imprisoned for not more than five years, or both.

"§ 622. Crimes affecting elections

"(a) It constitutes a separate offense and a violation of this section for a person to commit a violation of any provision of State law or of any provision of this title, other than any other provision of this chapter if the violation—

"(1) was committed for the purpose of interfering with, or affecting the outcome of, an election, and

"(2) is punishable by imprisonment for more than one year.

"(b) Violation of the provisions of subsection (a) is punishable by a fine not to exceed $25,000, imprisonment for not more than five years, or both.".

(b)(1) Section 591 of title 18, United States Code, as amended by section 404(b)(1) of this Act is amended by striking out "and 613" and inserting in lieu thereof "612, 613, 614, 615, 616, 617, 618, 619, 620, 621, and 622".

(2) The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"618. Use of funds to finance violation of provisions of Federal election laws.
"619. Contributions by certain other recipients of Federal funds.
"620. Fraudulent infiltration of Federal election campaigns for espionage and sabotage purposes.
"621. Misrepresentation of a candidate for elective office.
"622. Crimes affecting elections.".

OBSTRUCTION OF GOVERNMENT FUNCTIONS

SEC. 405. (a) Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1028. Obstruction of Government functions generally

"Whoever intentionally obstructs, impairs, or perverts a Government function by defrauding the Government of the United States, or any department or agency thereof, in any manner, shall be fined not more than $10,000 or imprisoned not more than five years, or both.".

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"1028. Obstruction of Government functions generally.".

By Mr. BENTSEN:

S. 496. A bill to amend the Social Security Act so as to provide, for a 1-year period, hospital insurance coverage under medicare for unemployed workers and their families. Referred to the Committee on Finance.

MEDICARE COVERAGE FOR THE UNEMPLOYED

Mr. BENTSEN. Mr. President, during the calendar year from December 1973 to December 1974 total joblessness in this country increased by over 2.1 million individuals.

The jobless rate now stands at 7.1 percent as opposed to 4.8 percent only a year ago; that represents one of the steepest climbs in unemployment since the Second World War.

The rapid escalations in unemployment have created some severe economic dislocations in our economy: unemployment compensation applicants have swelled dramatically, more working class individuals are turning to food stamps, and the social services in our society are being compelled to serve a broader range of people.

Congress has taken some significant steps to address the problems of the 6.5 million men and women out of work. We have passed major public works employment legislation, and we have extended unemployment compensation benefits.

There is, however, one major gap in our efforts to protect the unemployed, and that is in the area of medical coverage. According to Library of Congress estimates, it is probable that more than 1.74 million workers have lost their hospitalization coverage since December 1973, and this figure does not, of course, include the workers whose coverage had lapsed prior to that time.

For the unemployed man or woman who confronts the possibilities of a debilitating illness while uncovered by medical insurance, the anxieties are considerable. Hospital costs have tripled in the last 10 years. A day in the hospital cost, on the average, $33 in 1960, but in 1970 it cost $115. The costs of health care have escalated at twice the rate of the rise in the cost of living. Many of the newly unemployed are ineligible for medicaid, and, if they are, they find that the coverage fluctuates widely from State to State. Therefore, they find checks that may range from $90 to $125 per week, and unable to afford the high costs of purchasing health insurance policies for themselves or their families.

If they or members of their families require hospitalization, they find frequently that group hospitalization and surgical plans cease their coverage at the end of the calendar month in which termination of employment occurs. In fact, then, they are open to the possibilities of enormous debt and to the reality that hospitals may refuse to admit them without health insurance coverage.

I have long been on record arguing that we need a comprehensive national health insurance program, which would address these critical problems in a uniform way. I believe that we must be particularly concerned with the plight of the 25 to 30 million Americans who have no health insurance coverage whatsoever, many of whom are on welfare and ineligible for unemployment compensation.

The hard fact, is however, that we may not have a major health insurance bill before us for some time. To meet the urgent problems of the unemployed, we are going to require an emergency, stopgap health insurance program.

Today, I am introducing such a measure. It attempts to treat in an equitable way the millions of unemployed workers and their dependents who require protection against the burdens of hospital costs.

It is in no way a substitute for national health insurance; the high priority for that program still exists. It is, rather, an attempt to meet an emergency situation in the fairest possible way.

Briefly, the bill provides that an individual, if entitled to weekly benefits under a Federal or State unemployment compensation plan, would be entitled to be enrolled in the medicare, part A, program, which is directed to hospital costs. A dependent spouse or a dependent child or children would also be entitled to the basic medicare coverage, and in addition to that, they could receive a maternal and child health benefit package which would be devised by the Secretray of HEW.

All of the deductibles and co-payments under medicare would apply to these newly covered individuals.

To avoid unnecessary costs, benefits under the proposal would not be paid to the extent that any prepayment plan or insurance policy is still in effect, following termination of the individual's employment.

General revenue funds would be appropriated to the Federal Hospital Insurance Trust Fund in order to place in the fund the amount necessary to leave it in the same position it would have been in if the proposal had not been in effect.

Because the bill is designed as an emergency measure, it will be effective only for the 12-month period after the law is enacted.

Mr. President, it is obvious that any program developed for an emergency will result in some inequities. We recognized that when we passed the emergency public employment measure. But if we wait for comprehensive long-term health insurance bill, we may well end by helping neither the very poor nor the unemployed over the near term, and the problem is a near-term problem.

I have considered other proposals before advancing this one in its present form. Although I remain open-minded on the final structure of this program, I believe that using medicare has several advantages. In the first place, it is an in-place system, which would not require an additional layer of bureaucracy. It has a standardized benefit package, which means that all who take advan-

tage of it will fare equally. Finally, it covers the most essential hospital services: Operating and recovery room costs, lab tests, radiology services, medical supplies, and a wide range of rehabilitation services.

If we find that the final cost estimates from HEW can be revised downward, we stand ready to amend the final benefit package.

We have received a preliminary estimate that the coverage under part A would require some $2.1 billion in general revenues, but these estimates are currently being refined. I recognize that this is a substantial sum, but I believe that the need for the legislation is so compelling that we are justified in offering this kind of protection to the millions of unemployed now facing an uncertain economic future compounded by the fears that catastrophic illness will eat up whatever savings they now have.

I intend to continue to press for comprehensive health insurance, but we cannot allow this program to await the outcome of the debate on that issue, which promises to be long and protracted.

I commend to my colleagues this legislation and invite their cosponsorship.

At this point, I ask unanimous consent to insert the text of the measure in the RECORD.

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

S. 496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 226 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding the foregoing provisions of this section or any provision of title XVIII—

"(A) every individual who—

"(i) is unemployed,

"(ii) is not, and upon filing any appropriate application would not be, entitled under any other provision of law to hospital insurance benefits under part A of title XVIII, and

"(iii) is not dependent spouse (as defined in regulations of the Secretary), and

"(B) every individual who is the dependent spouse or dependent child (as defined in regulations of the Secretary) of an individual described in clause (A),

shall be entitled to hospital insurance benefits under part A of title XVIII for each calendar month for which the conditions prescribed in clause (A) or clause (B), as the case may be.

"(2) An individual shall be deemed to be unemployed for a calendar month only if, for the first week which ends in such month, such individual has established, under a State or Federal unemployment compensation law, entitlement to weekly benefits under such law. For purposes of the preceding sentence, an individual shall not be regarded as having failed to establish entitlement to a weekly benefit under such law for any week if a benefit for such week is not payable to him solely because he was unable to work because of illness or disease if such individual received a weekly benefit under such law for the week preceding the first week that he was unable to work because of illness or disease.

"(3)(A) The provisions of title XVIII relating to deductibles and copayments shall be applicable to individuals deemed to be entitled to hospital insurance under this subsection.

"(B) The Secretary shall by regulation waive, with respect to individuals covered under the hospital insurance program established by part A of title XVIII by this subsection, any condition or limitation contained therein if, and to the extent that, he determines that the application of such condition or limitation would work a peculiar hardship or inequity on such individuals or would deny such idividuals needed maternal and child health services.

"(C) Notwithstanding any provision of title XVIII, amounts otherwise payable under such title for any item or service provided to an individual entitled to benefits thereunder by reason of the preceding provisions of this subsection shall not be payable if, and to the extent that, any prepayment plan or insurance policy covering such individual is legally obligated to make payment for such item or service.

"(4) There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

"(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals covered for hospital insurance under the preceding provisions of this subsection,

"(B) the additional administrative expenses resulting or expected to result therefrom, and

"(C) any loss in interest to such Trust Fund resulting from the payment of such amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if the preceding provisions of this subsection had not been enacted."

(b) The amendment made by subsection (a) shall be effective only for the 12-month period beginning on the first day of the month following the month in which this Act is enacted.

By Mr. BUCKLEY (for himself, Mr. BROOKE, Mr. DOLE, Mr. HUMPHREY, and Mr. DOMENICI):

S. 497. A bill to provide for the monthly publication of a Consumer Price Index for the Aged which shall be used in the provision of cost-of-living benefit increases authorized by title II of the Social Security Act. Referred to the Committee on Finance.

SPECIAL COST-OF-LIVING INDEX FOR THE AGED RECEIVING SOCIAL SECURITY PAYMENTS

Mr. BUCKLEY. Mr. President, today I am reintroducing a bill to require the creation of a cost-of-living index for the aged. There is no doubt that the elderly have certain special consumer needs and interests not generally shared by the public at large. Such items as medical care, medicine, personal services, heating oil, and housing are examples of goods or services of which the elderly often have a greater and continuing need. The costs of some of these special items have risen significantly faster and higher even in recent years than the general price index, which itself has shot upward as a result of rampant inflation. A good example of this problem is the cost of health care, which rose 50 percent more than the overall Consumer Price Index between 1965 and 1970. For instance, between 1965 and 1970, the daily hospital service charge cost nearly 70 percent. On the average the cost of hospital care is the highest single item—nearly 50 percent on the annual health bill of an elderly person.

That the need for, and cost of, health care impacts much more heavily on the elderly is demonstrated by the fact that, in fiscal year 1969, the average health bill for a person 65 or older was six times that for a youth, and 2½ times that for a person aged 19 to 64.

The elderly also spend more on food. The most recent survey of consumer expenditures, 1960–61, found that a couple over 65 spent 25 percent of their income on food, while a couple between the ages of 35 and 44 spent only 22 percent on food. In addition, the cost of food rose by 43 percent from 1965 to 1970, while the Consumer Price Index rose by only 31 percent during the same period.

Household costs is another area that impacts heavily on the elderly. Such costs comprised about 37 percent of the BLS budget constructed to reflect an adequate standard of living for a retired couple with a moderate income in 1972 compared to 31 percent for a young family of four persons.

Housing costs have also risen sharply in recent years. In many communities, for example, property taxes have doubled and even tripled within the past 10 years. Housing costs rose nearly 40 percent more than the Consumer Price Index from 1965 to 1970.

A more thorough documentation of the special cost-of-living problems of the elderly can be found in the extensive hearings held during the past several years by the Senate Special Committee on Aging, entitled "Economics of Aging: Toward a Full Share in Abundance."

This bill, which is identical to an amendment I offered, and which was accepted, to H.R. 3153, the Social Security Amendments Act of 1973, would provide for two things:

First, it would require the Secretary of Labor to develop a Consumer Price Index for the aged which would more accurately reflect the actual cost experience of the aged than does the existing Consumer Price Index which reflects norms for the entire population.

Second, it would require that the Consumer Price Index for the aged be employed to adjust the benefits received by social security recipients to reflect changes in the index on a quarterly basis. The bill would provide that in no case shall benefits received under the provisions of this legislation be less than those received under existing provisions of law.

Mr. President, I believe that the enactment of this legislation would insure that future cost-of-living increases under the Social Security Act are more attuned to, and accurately reflect, the actual needs and special expenses of the aged.

Mr. President, I ask unanimous consent that a paper discussing the need for this legislation, which was done by economist Gladys Ellenbogen, be inserted into the RECORD at the end of my remarks.

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

SOCIAL SECURITY RETIREMENT BENEFITS AND THE CONSUMER PRICE INDEX

(By Gladys Ellenbogen, Ph. D.)

Aware of the continuing and accelerating rise in the cost of living, Congress in mid-1973 voted to increase social security benefits by the same percentage that the Consumer Price Index had risen between June 1972 and June 1973.[1] The increase, which takes effect with the July 1974 payment, is 5.9 percent.[2]

In 1972 Congress had mandated an automatic escalator provision for social security benefits. The increase was to start in January 1975 and the trigger for the benefit increase was a rise of 3 percent in the Consumer Price Index during any calendar quarter of the year.[3] With the persistent rise in prices the 1972 law was changed in two ways: the starting date has been moved up to July 1974 and the initial percentage increase is to be equal to the price level rise between June 1972 and June 1973. This rise, noted above, was 5.9 percent.[4]

For the first time in our nation's history the dollar amount of a government payment to a large segment of the public will be increased automatically as prices rise. Certainly Congress was well-intentioned in providing for automatic retirement benefit increases. However, since the Consumer Price Index is the only price index prepared by the federal government that conceivably could be used for this purpose, there was no available alternative for an inflation adjustment. However, the Consumer Price Index is an inappropriate adjustment factor for social security retirement beneficiaries. Where a price index is to affect the income and living standard of a well defined demographic group such as retired persons a specialized index should be prepared.

Occupationally and geographically the Consumer Price Index is inapplicable to the retired worker because it is designed to show changes in the cost of goods and services bought by the "urban wage earner and clerical worker." For calculation of the Consumer Price Index the Bureau of Labor Statistics of the U.S. Department of Labor each month collects the prices of about 400 separate goods and services which represent the totality of items purchased by the consumer. The consumer in this context is the urban wage earner and clerical worker.

Slightly over two million of the 20 million persons 65 and over are on payrolls. Even if we assume—and this is surely an invalid assumption—that all of the two million can be geographically classified as living in urban areas and occupationally classified as wage earners and clerical workers, there still remain 18 million persons over 65 who do not come within the definition of the "consumer" for purposes of the Consumer Price Index.

To these 18 million, who are neither wage earners nor clerical workers, there must be added the one and a half million retired workers between the ages of 62 and 64, who are receiving social security retirement benefits, albeit at an actuarially reduced level. In addition, there is the spouse, typically a wife, age 62 to 64, who is receiving benefits based on her husband's work record. Or, instead of the wife of a retired worker, there may be a widow receiving benefits based on the monthly amount due to the deceased primary beneficiary. The total number of these survivors and dependents, age 62 to 64, is currently 840,000.[5]

Most of these persons are not on payrolls. They, therefore, cannot be categorized as wage earners or clerical workers simply because they do not work.

Footnotes at end of article.

And yet it is the change in prices of the 400 items on the shopping list of the urban wage and clerical worker which will change the income of the social security recipients who are neither wage earners nor clerical workers. To arrive at the shopping list of 400 items a Consumer Expenditure Survey is made at intervals of approximately ten years. About 17,000 families are interviewed to derive the list of goods and services purchased and it is from these lists that the 400 representative items are chosen for monthly pricing. The last completed Consumer Expenditure Survey—a new one is currently underway—was taken in 1960–1961 and some families headed by a retired person were interviewed. However, the Consumer Price Index is *not based* on their expenditures.

Therefore, we are faced with an unanswerable question: do social security retirement beneficiaries have patterns of expenditures identical to the expenditure patterns of wage earners and clerical workers? We do not know. For without a broad sample of retired persons and direct inquiry concerning their expenditures the question cannot be answered.[6] However, we can draw certain inferences from studying the "market basket" of goods and services comprising the Consumer Price Index.

The market basket of 400 items is grouped into eight broad categories and 11 limited categories. For example, food is a broad category which is subdivided into "food at home" and "food away from home." Housing, a large category, is comprised of narrower groupings such as rent, home ownership, fuel and utilities, household furnishings and operation.

The eight major categories are: Food; Housing; Apparel and upkeep; Transportation; Medical care; Personal care; Reading and recreation; and, Other goods and services.

The relative importance of a grouping or component of the Consumer Price Index is based on the Consumer Expenditure Survey which asks questions on the list of items purchased, the frequency of their purchase and the total dollar amount spent. Expenditures on each group are then computed as a percentage of 100; the relative importance of a component of the CPI is the expenditure for that component as a percentage of all items. The expenditure distribution for major components of the Consumer Price Index are as follows:

	Percent
All items	*100.000
Food	22.492
Housing	33.859
Apparel and upkeep	10.370
Transportation	13.134
Medical care	6.447
Personal care	2.573
Reading and recreation	5.656
Other goods and services	5.093

* Rounded to 100 percent from a total of 99.624 percent.

So that of each $100 the consumer spends for items in these categories approximately $22.50 is for food, $33.86 for housing, $13.13 for transportation and so forth.

To apply the Consumer Price Index to social security retirement beneficiaries it must be assumed the older person's expenditures for each component are in the same proportion as for the wage earner and clerical worker. This assumption is important because the expenditure components do not experience the same rate of price rise. For example, assume there are only two groups of expenditures: food and apparel. In the 12 month period beginning May 1972 food prices rose 12.8 percent and apparel 3.4 percent. If, however, food is a larger percentage of the expenditures of older persons than it is for persons on payrolls, and apparel is a smaller percentage for older persons, then the cost of living for older persons rose more than it did for wage earners and clerical workers.

Some tentative conclusions can be drawn from the analysis of the groups for which prices are calculated each month. Food at home rose 14.5 percent while food away from home rose only 6.5 percent. It would appear that retired persons are unlikely to eat away from home as frequently as working people because they do not have to have restaurant lunches as do most jobholders. And, too, eating "out" is usually more costly than eating at home. Further, there appears to be evidence, based on limited surveys, that older persons spend a larger percentage of their income on food and particularly food at home, than do other groups. The 1960–61 Consumer Expenditure Survey showed that retirees spend 2.5 percent more of their income for food than do wage and clerical workers. The Bureau of Labor Statistics in preparing its standard budgets for retired couples assumes 27.7 percent of all expenditures are accounted for by food. Standard budget figures, although not based on surveys, do include the cost of items considered appropriate for a specific living standard. The 27.7 percent figure is included in the distribution of costs for a moderate living standard.[7]

Close to 70 percent of older persons own their own homes. Consequently, property tax rises as well as increases in insurance costs and home maintenance charges affect the elderly with greater impact than age groups in which home ownership is not as prevalent. Although housing costs as a whole rose only 3.4 percent between Spring 1972 and Spring 1973, property taxes rose 5.8 percent. The Consumer Price Index figures for home ownership include home purchase costs and mortgage rates. These expenses are unlikely to be of as great significance to older persons as to younger. So that there needs to be a separate group of housing items relevant to the costs incurred by retired persons.

With respect to medical care, it would seem that older persons spend a larger percentage of their income on this component than do the other age groups. Evidence for this may be found in recently published figures of the Social Security Administration which show that persons over age 65 spent $276 in 1972 for out-of-pocket medical expenses, while persons under age 65 had out-of-pocket medical expenses of only $102.[8]

Since the income of persons 65 and over is lower than that of persons under 65 the $276 must be a larger percentage of older persons income than the $102 out-of-pocket of younger persons. It should be noted here, too, that the Consumer Price Index does not include the price of health insurance premiums. However, almost all social security beneficiaries and dependents or survivors 65 or over now pay $6.30 each month for their Medicare Part B premium. The amount of this Medicare premium has been increasing steadily over the years and raises medical costs for the elderly. For a married couple it is now $151.20 annually.

In addition to the difference in relative importance of the groups of items for retired persons as contrasted with the wage earner and clerical worker to whom the Consumer Price Index applies, there is the strategic issue of the specific items themselves. For example, included under apparel are such purchases as boys' sneakers, girls' plastic pocketbooks, boys' dungarees, and under "miscellaneous apparel" there is the item diapers. These are unlikely to be purchases made by the elderly. Household furnishings include the item cribs; for the group of items under the heading "housekeeping services" the Consumer Price Index includes babysitter services and preschool child licensed day care services. Reading and recreation items cover, among other goods, basketballs, bicycles and tricycles.

The medical care component prices the

cost of obstetrical care, and pediatric care but not the cost of medical care for myocardial infarction (heart attack) or cerebral hemorrhage or cholecystectomy (gall bladder) or fractured neck of femur (broken hip).

Based on the limited 1960–61 Consumer Expenditure Survey of older persons, medical care costs accounted for slightly over 10 percent of their expenditures; at that time the medical care component for wage and clerical workers was only 6.2 percent of total expenditures. With medical costs rising rapidly the social security beneficiaries are adversely affected by application of the Consumer Price Index as the inflation adjustment-factor to their income.

Another factor limiting the applicability of the Consumer Price Index to retired persons concerns the place of purchase. Younger persons have a wider range of options with respect to the type of retailer they patronize: the neighborhood store, the discount house, the downtown shopping area, the suburban mall, the highway shopping center, are examples which may be cited. Older persons, frequently lacking private transportation and faced with inadequate public transportation, may pay higher prices because of their inability to "shop around" or take advantage of sales. However, in pricing the 400 items, the "shoppers" working for the Bureau of Labor Statistics collect prices from the same type of establishments in which persons interviewed for the Consumer Expenditure Survey shop. This may lead to older persons paying higher prices than the wage earner and clerical worker covered by the Consumer Price Index.

FOOTNOTES

[1] P.L. 93–66, July 9, 1973.

[2] U.S. Department of Labor release 73–318, *The Consumer Price Index-June 1973*, Table 1, July 20, 1973.

[3] P.L. 92–336, July 1, 1972.

[4] The 5.9 percent increase will be the first cost-of-living adjustment. Three percent will be the adjustment figure used thereafter.

[5] *Monthly Benefit Statistics*, Office of Research and Statistics, Social Security Administration, U.S. Department of Health, Education, and Welfare, September 24, 1973, Table 2, (unpaged.)

[6] See Appendix for viewpoints of three government agencies.

[7] In speaking for social security benefit escalation on June 20, 1973, Senator Abraham Ribicoff used the figure of 27 percent as the percent of income the elderly spend for food. (*Congressional Record*, vol. 119, pt. 16, p. 20441.

[8] B. Cooper and N. Worthington, "Age Differences in Medical Care Spending, Fiscal Year 1972", *Social Security Bulletin*, May 1973, p. 3.

By Mr. EAGLETON:

S. 498. A bill to amend title XVI of the Social Security Act to permit individuals who are residents in certain public institutions to receive supplementary security income benefits. Referred to the Committee on Finance.

PROHIBITION ON SSI PAYMENTS TO PUBLIC NURSING HOME RESIDENTS SHOULD BE REMOVED

Mr. EAGLETON. Mr. President, I am reintroducing my bill to amend title XVI of the Social Security Act to remove the prohibition against supplemental security income payments to persons in public nursing and domiciliary facilities. This bill was first introduced on October 9, 1974, as S. 4104.

Section 1611(e) of the Social Security Act now makes ineligible for SSI payments all persons in public institutions with one exception; persons in public nursing homes whose care is covered by medicaid may receive a reduced SSI payment of $25 per month for their personal expenses. The same provision for a reduced benefit applies to persons receiving medicaid-covered care in private nursing facilities.

Those residents of public nursing or domiciliary facilities who are receiving personal care or residential care, as distinguished from nursing care, are ineligible for SSI payments although persons receiving the same type of care in private facilities are eligible.

My bill would eliminate this discriminatory treatment of persons in public nursing and domiciliary facilities.

To put this matter in some perspective, the prohibition against public assistance payments to persons in public institutions dates back to the original Social Security Act of 1935 which prohibited old age assistance to persons in public institutions for essentially two reasons.

First, it was the hope of those who authored that legislation that cash assistance to the elderly poor would enable them to live independently in their own homes and avoid the indignity of spending their last days in public almshouses or county poorfarms.

Second, care provided in such public institutions was, at that time, clearly recognized to be the responsibility of State or local governments. Therefore, it was determined that Federal old age assistance funds should not be used to relieve local governments of that responsibility.

Those two very legitimate reasons for banning public assistance payments to persons in public institutions in 1935 no longer exist today. Although enactment of the Social Security Act did have the effect of closing down public poorhouses and temporarily reducing institutionalization of the elderly, in the long run cash assistance has not eliminated the need for institutional care. In fact, that need has increased over the years and a private nursing home industry has grown up to fill the need. Today, when counties, cities, or other units of local government provide nursing or domiciliary facilities for their elderly citizens they assume that function voluntarily and not as an inescapable responsibility.

In 1950 the Congress recognized these changed circumstances when it amended the Social Security Act to exempt from the prohibition persons in public "medical" institutions, including nursing and convalescent homes.

The SSI law, enacted in 1972, while conforming to the general thrust of the 1950 amendment, narrowed the eligibility of those in public medical institutions by confining it to persons receiving medicaid-covered nursing care. As a result, many elderly persons in public nursing homes in Missouri who were previously eligible for old age assistance are now being determined to be ineligible for SSI payments.

In Missouri, we have what I understand may be a rather unique brand of public nursing home. In 1963, in response to the need for more and better nursing facilities in outstate Missouri, the legislature enacted a law providing for the creation of public nursing home districts for the purpose of establishing and operating nursing facilities. Today there are 22 nursing homes established by these public districts. Another eight districts have been organized but have not yet purchased or constructed nursing facilities. Tax moneys raised by the nursing home district are used primarily for debt service and not for the operation of the home or to subsidize the care of individual residents.

In addition to the 22 distinct nursing homes, there are a number of county nursing homes in Missouri which are to one degree or another under the jurisdiction of county governments.

In recent months, the Social Security Administration has undertaken a process of identifying these nursing homes as "public institutions" and terminating SSI payments to their residents. It has been estimated that as many as 500 people may eventually lose their SSI payments.

The obvious result will be a hardship to these elderly people and their families and serious curtailment of the ability of public nursing facilities to accept elderly persons who do not have the financial resources to pay for the cost of their care.

My bill has been drafted so as to preclude the possibility that it could in any way encourage the provision of substandard care.

First, section 1616(e) of the Social Security Act now provides that the Federal Government will not share, by means of SSI payments, in the cost of skilled nursing care or intermediate care when that care is provided in a facility that does not meet medicaid standards. My bill does not circumvent that provision; rather it incorporates it in order to make clear that it will be applicable to public as well as to private facilities. This, of course, does not mean that nursing home care cannot be provided in nonmedicaid facilities; it simply means that financial assistance for such care must come from non-Federal funds.

Second, my bill requires that those public facilities caring for SSI recipients must meet applicable State licensing standards or such higher standards with respect to safety and sanitation as may be required by the Secretary of Health, Education, and Welfare. Thus, SSI funds will not be channeled into public facilities which constitute a hazard to the health and safety of their residents.

Mr. President, my bill recognizes the fact that public nursing and domiciliary facilities may provide care for elderly persons as good as—or even better than—they would receive in private facilities. Its purpose is to guarantee that persons in nursing and domiciliary facilities, whether public or private, are treated equally under the SSI law.

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

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

S. 498

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That (a) section 1611(e)(1) of the Social Security Act is amended—

(1) in subparagraph (A) thereof, by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)", and

(2) by adding at the end thereof the following new subparagraph:

"(C) The provisions of subparagraph (A) shall not be applicable to any individual who is a resident of an institution which is a skilled nursing facility, nursing home, intermediate care facility, or residential facility which is not principally a hospital, sanatorium, rehabilitation center, correctional institution, or school or training facility; except that the provisions of this subparagraph (C) shall not be applicable to any individual—

"(i) for any month with respect to which the provisions of subparagraph (B) are applicable to such individual,

"(ii) for any month throughout which such individual receives from such institution care which constitutes any medical or other type of remedial care for which payment could be made under a State plan approved under title XIX in an institution certified under such title, or

"(iii) during any period for which such institution fails to meet applicable requirements of State law with respect to licensing of institutions or applicable standards established by State law for the licensing of institutions, or, if the Secretary finds that such requirements or standards are inadequate, fails to meet such standards relating to safety and sanitation as the Secretary shall by regulations establish.".

(b) The amendments made by subsection (a) shall become effective on the first day of the month following the month in which this Act is enacted.

By Mr. TUNNEY:

S. 499. A bill to amend the Motor Vehicle Information and Cost Savings Act. Referred to the Committee on Commerce.

AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1975

Mr. TUNNEY. Mr. President, this Nation is faced with an ever deepening energy crisis. The United States, with only 6 percent of the world's population, is responsible for more than 30 percent of the world's consumption of energy resources each year. The Arab oil embargo dramatically demonstrated that this profligate energy consumption has led to a severe U.S. dependence on foreign sources of energy. We must not forget that oil can be shut off again at any time, making us continually vulnerable to oil blackmail.

The wealth of this Nation is being bled in order to pay for the monopoly price of oil imposed by the cartel. At the core of this crisis is the fact that we have been utilizing our energy resources in a grossly inefficient manner. This inefficient use of energy has been a driving force behind the dual scourges—recession and inflation—simultaneously afflicting this Nation.

It must be clear to everyone by now that our gas-guzzling automobiles are a primary cause of this energy waste. The automobile is the single largest user of petroleum in this country. It accounts for almost 40 percent of the oil consumed annually. In 1970, this amounted to 100 billion gallons of gasoline per year.

Furthermore, the automobile is one of the major causes of air pollution in this country. The National Academy of Sciences has estimated that air pollution damage costs this Nation about $10 billion a year and adversely affects the health of countless Americans.

In extensive hearings I held last year, witness after witness stated that the goals of the Clean Air Act could be met and vast energy savings were possible, if we were willing to make a national commitment to developing a clean, quiet, energy efficient and nonpolluting automobile. These witnesses, however, emphasized that these goals would not be met if we continued to merely tinker with minor modifications in the present internal combustion engine or failed to commit enough of our fiscal resources for a concentrated program of research and development.

Unfortunately, President Ford in his state of the Union message, failed to commit this Nation to an all-out effort to improve the energy efficiency of our automobiles. His proposals instead would prove a windfall for the automobile industry at the expense of the American consumer. They fail to assure the American public significant improvement in the energy efficiency of our cars or adequate improvement in air pollution.

President Ford's program is ill-conceived and shortsighted. It threatens to torpedo rapid development of energy efficiently and nonpolluting automobiles.

In effect, the President has struck a bargain with the automobile industry. He offers the industry a 5-year freeze on Clean Air Act standards, requiring it to meet only "interim" standards.

It has been conservatively estimated that this "freeze" will save the big four auto makers hundreds of millions of dollars. These savings, of course, are on top of the liberalized investment tax credit and the lower corporate income tax rate the industry also will be receiving during this period under the Ford program. Clearly, this program is a bonanza for the automobile companies, and a sham and an insult to the American public.

The President says the automobile industry has promised to increase by 1981, through a voluntary program, average gasoline mileage by 40-percent over 1974 levels. Close analysis shows that this figure is misleading. We all know that the average 1974 car was scandalously inefficient. So the 40 percent average improvements are weighted against an extremely low base. Many cars already on the road are vastly more efficient than the Ford program would require. Thus the Ford program does not push the auto industry to make breakthroughs but to merely make minor modifications in the configuration of the present automobile.

That is the easy and profitable way for Detroit, but it could spell disaster for consumers.

The industry claims to have accomplished a 13-percent energy efficiency improvement in 1974 cars through the use of catalytic converters.

But the Environmental Protection Agency scientists continue to be concerned that the catalytic converter may create sulfuric acid mist, which in the words of an internal EPA memo might produce cancer or cardio-respiratory diseases.

Just this week EPA released a draft paper which indicates that:

> With continued heavy reliance on catalysts by the auto industry, the public health risk from increased sulfate emissions could outweigh the benefits of added hydrocarbon and carbon monoxide control as early as the 1978 model year nationally, and probably sooner in California.

EPA noted that removal of sulfur from gasoline might ease this problem. But the energy loss and refinery costs are likely to be substantial.

Another disturbing aspect of the Ford approach is the fact that the President accepted "commitments" from the automobile companies that are illusory at best. These so-called commitments, contained in letters to Secretary Morton of the Interior Department, are vague and imprecise. They fail to detail what the automobile companies will do to meet the goal of developing energy efficient cars.

It seems to me that at the very least these companies should be required to spell out in detail how much they are prepared to spend to meet mandated clean air standards and energy conservations goals. The automobile companies should not be able to divert their savings due to the Clean Air Act freeze to advertising and investment in automation that only will go to put more people out of work.

If past history is any guide, the automobile companies are going to make every effort to maintain large cars. They continue to be unwilling to carry out the extensive research necessary to develop efficient alternatives to present automobile systems.

In the 1974 Consumer Guide Car Preview it was pointed out that—

> Big cars are where the money is made. Estimates indicate that an auto manufacturer makes a profit from $200 to $250 on each big car sold. As the size of the car, and its sales price, gets smaller, the profits shrink too. Small cars . . . bring in an income of $100 to $150 per unit. With this spread in profitability, it is no wonder that the auto companies continue to boost their big cars in the face of the small car revolution.

The automobile companies, with billions of dollars invested in the present internal combustion engine and the big car configuration, will continue to be reluctant to change their approach unless they are pushed much harder than the President is willing to push.

The President has given us no justification for his claim that the Clean Air Act freeze will promote greater automobile energy efficiency.

Information we received at our hearings strongly suggests that severe cutbacks in the Clean Air Act standards are not necessary to meet the President's energy efficiency goals. A RAND study claims that as much as a 50 percent energy efficiency improvement in automobiles is possible with no change in Clean Air Act standards.

The Department of Transportation and the Environmental Protection Agency, in a joint study, found that the objective of a 40 percent gain in automobile efficiency in the next 5 years could be met with only minor modification of the NO_x standard. This study did not find any

need for the drastic cutback now proposed to be mandated by the President. Therefore the President is selling out clean air and the American public despite the fact that the administration's own experts have emphatically said these clean air cutbacks are not necessary.

The President's claim that these actions are necessary for economic reasons is also spurious. A New York Times editorial points out the fallacy of this argument:

> The President's plan for Detroit cannot make any short-range difference in any case, since lay-offs in the industry today will not be affected by easing emissions reductions two years from now. And if it is the long-range picture that is to be considered, then whatever increased costs are involved in emission controls must be measured against what automobile pollution now costs the nation—an amount the National Academy of Sciences suggests may reach $10 billion a year.

And the costs are more than fiscal. It has been estimated that 15,000 Americans die each year from air pollution related causes.

In short, the President has offered a bankrupt policy that will neither give us significant energy savings nor solve our pollution problems.

Therefore, along with Senator MAGNUSON and Senator HART, I am introducing the Automotive Research and Development Act of 1975. Instead of a vague arrangement by which the auto companies promise voluntary efforts, this program is precise, direct, and focused on meeting Clean Air Act standards and maximum energy conservation requirements.

This legislation assures that neither clean air nor energy conservation goals are sacrificed. Furthermore, in this period of economic dislocation, it requires that a critical mass of funding will be directed toward energy conservation research. The legislation also will enable the Government for the first time to develop sufficient independent data to serve as a benchmark in order to assess the true potential of automotive research and development, rather than merely relying on "paper studies" and the self-serving claims of the auto industry.

To carry out this program, the legislation mandates an immediate and intensive national research and development program to produce, within 4 years, a prototype motor vehicle that is clean, quiet, energy-efficient, safe and suited to our existing pattern of life.

The legislation would mobilize and consolidate national scientific resources in a down-to-earth Apollo-type program for moving people along our highways instead of through space. Of course, the effort would be far less costly than the billions we spent for space, but it would create the same sense of national priority and commitment as the Apollo program.

A concerted effort backed up by a program which authorizes grants of up to $140 million and Federal loan guarantees of up to $200 million for the development of a clean, energy-efficient car engine could do more for the United States than Detroit has done for the last 50 years.

It is time that this Government make a maximum effort to make the car as efficient as possible. If we fail in this area it jeopardizes our whole energy conservation effort and continues the threat of energy shortages or energy blackmail from the Arab led cartel.

Mr. President, I ask unanimous consent that this legislation be printed at this point in the RECORD.

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

S. 499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—RESEARCH AND DEVELOPMENT

"SHORT TITLE

"SEC. 501. This title may be cited as the 'Automotive Transport Research and Development Act of 1975'.

"FINDING AND PURPOSE

SEC. 502. (a) FINDINGS.—The Congress finds that—

"(1) Existing automobiles are inadequate to meet all of the long-term goals of this Nation with respect to providing safety, to protecting the environment, and to conserving energy.

"(2) With additional research and development, several advanced alternatives to existing automobiles have the potential to be mass produced at a reasonable cost with significantly less environmental degradation and fuel consumption than existing automobiles while remaining compatible with other requirements of Federal law.

"(3) Insufficient resources are being devoted to research and development of advanced automobiles and automobile components both by the Federal Government and the private sector.

"(4) An expanded research and development effort into advanced automobiles and automobile components by the Federal Government is needed to increase such efforts by the private sector and encourage automobile manufacturers to seriously consider such advanced automobiles and automobile components as alternatives to existing automobiles and automobile components.

"(5) Because of the urgency of the energy, safety, and environmental problems, such advanced automobiles and components should be developed, tested, and prepared for manufacture within four years from the date of enactment of this title.

"(b) PURPOSES.—Therefore, it is the purpose of this title: (1) to make grants for, and support through loan guarantees, research and development leading to production prototypes of an advanced automobile or automobiles within four years from the date of enactment of this title and to secure the certification after testing of those prototypes which are likely to meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives; and (2) to interpret and carry out this title to preserve, enhance and facilitate competition in research, development, and production of existing and alternative automobiles and automobile components.

"DEFINITIONS

"SEC. 503. As used in this title—

"(1) 'Advanced automobile' means a personal use transportation vehicle propelled by fuel, which is energy-efficient, safe, damage-resistant, and environmentally sound and which—

"(A) presents, consistent with environmental requirements, the least total amount of energy consumption with respect to the amount of fuel consumed, the type of fuel consumed, or the production, use and disposal of such automobile, and represents a substantial improvement over existing automobiles with respect to such factors;

"(B) can be mass produced at the lowest possible cost consistent with the requirements of this title;

"(C) operates safely and with sufficient performance with respect to acceleration, cold weather starting, cruising speed, and other performance factors;

"(D) to the extent practicable, is capable of intermodal adaptability; and

"(E) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any requirement of Federal law, including, but not limited to, requirements with respect to fuel economy, exhaust emissions, noise control, safety, and damage resistance.

"(2) 'Damage resistance' refers to the susceptibility to physical damage of an automobile when involved in an accident.

"(3) 'Developer' means any person engaged in whole or in part in research or other efforts directed toward the development of production prototypes of an advanced automobile or automobiles.

"(4) 'Fuel' means any energy source capable of propelling an automobile.

"(5) 'Fuel economy' refers to the average number of miles (kilometers) traveled by an automobile per unit of fuel consumed.

"(6) 'Intermodal adaptability' refers to any characteristic of an automobile which enables it to be operated or carried, or which facilitates such operation or carriage, by or on an alternate mode or other system of transportation.

"(7) 'Low-Emission Vehicle Certification Board' means the Low-Emission Vehicle Certification Board established pursuant to section 212 of the Clean Air Act (42 U.S.C. 1857f–6e).

"(8) 'Production prototype' means an automobile which is in its final stage of development and is capable of being placed into production for sale at retail in quantities exceeding ten thousand automobiles per year.

"(9) 'Reliability' refers to the ease of diagnosis and repair of an automobile and its systems and parts which fail during use or are damaged in an accident and the average time and distance that proper operation can be expected without repair or replacement.

"(10) 'Safety' refers to the performance of an automobile or automobile equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident.

"(11) 'Secretary' means the Secretary of Transportation.

"(12) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

"DUTIES OF THE SECRETARY

"SEC. 504. The Secretary is authorized and directed to insure the development of one or more production prototypes of an advanced automobile within four years after the date of enactment of this title. The Secretary and the Administrator of the Environmental Protection Agency shall to the fullest extent practicable coordinate motor vehicle research programs and the Administrator is directed to give careful consideration to any request, on a reimbursable basis or otherwise, for such assistance as the Secretary deems necessary to promote such development. In furtherance of the purposes of this title and to promote such development by private interests, the Secretary is further authorized and directed to—

"(a) make grants for research and development efforts likely to lead or contribute

to the development of an advanced automobile or automobiles, in accordance with the provisions of section 506 of this title;

"(b) make loan guarantees for research and development efforts which show promise of leading or contributing to the development of an advanced automobile or automobiles, in accordance with the provisions of section 507 of this title;

"(c) conduct and accelerate research and development programs within the Department of Transportation for the purpose of contributing to the research and development of a production prototype of an advanced automobile or automobiles;

"(d) test or direct the testing of production prototypes and secure certification as advanced automobiles those which meet the applicable requirements, in accordance with section 508 of this title;

"(e) collect, analyze, and disseminate to developers information, data, and materials relevant to the development of an advanced automobile or automobiles;

"(f) prepare and submit studies as required under section 511 of this title; and

"(g) receive and evaluate any reasonable new technology, a description of which is submitted to him in writing, which could lead to the development of an advanced automobile.

"POWERS OF THE SECRETARY

"SEC. 505. In addition to the powers specifically enumerated in any provision of this title, the Secretary is authorized to—

"(a) appoint such attorneys, employees, agents, consultants, and other personnel as he deems necessary, define the duties of such personnel, determine the amount of compensation and other benefits for the services of such personnel and pay them accordingly;

"(b) procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for qualified experts;

"(c) obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise, identifying the assistance he deems necessary to carry out his duties under this title, including, but not limited to, transfer of personnel with their consent and without prejudice to their position and rating;

"(d) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his duties under this title, with any government agency or any person; and

"(e) purchase, lease, or otherwise acquire, improve, use, or deal in and with any property; sell, mortgage, lease, exchange, or otherwise dispose of any property or other assets; accept gifts or donations of any property or services in aid of any purpose of this title.

"GRANTS

"SEC. 506. (a) GENERAL.—(1) The Secretary shall provide funds by grant or contract to initiate, continue, supplement, and maintain research and development programs or activities which, in his judgment, appear likely to lead to the development, in production prototype form, of an advanced automobile or automobiles.

"(2) The Secretary is authorized to make such grants, and contracts with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

"(b) CONSULTATION.—The Secretary, in the exercise of his duties and responsibilities under this section, shall consult with the Administrator of the Environmental Protection Agency and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the areas of automobile research, development, and technology. The Secretary may establish an advisory panel or panels to review and make recommendations to him on applications for funding under this section.

"(c) PROCEDURE.—Each grant under this section shall be made in accordance with such rules and regulations as the Secretary shall prescribe in accordance with the provisions of this section and of section 502 of this title. Each application for funding shall be made in writing in such form and with such content and other submissions as the Secretary shall require.

"LOAN GUARANTEES

"SEC. 507. (a) GENERAL.—(1) The Secretary is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, to guarantee and to make commitments to guarantee the payment of interest on, and the principal balance of, an obligation to initiate, continue, supplement, and maintain research and development programs or activities which, in his judgment, appear likely to lead to the development, in production prototype form, of an advanced automobile or automobiles. Each application for such a loan guarantee shall be made in writing to the Secretary in such form and with such content and other submissions as the Secretary shall prescribe to reasonably protect the interests of the United States. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate. Each guarantee and commitment to guarantee shall inure to the benefit of the holder of the obligation to which such guarantee or commitment applies. The Secretary is authorized to approve any modification of any provision of a guarantee or a commitment to guarantee such an obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms or conditions, upon a finding by the Secretary that such modification is equitable, not prejudicial to the interests of the United States, and has been consented to by the holder of such obligation.

"(2) The Secretary is authorized to so guarantee and to make such commitments to any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

"(b) EXCEPTION.—No obligation shall be guaranteed by the Secretary under subsection (a) of this section unless he finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

"(c) CHARGES.—(1) The Secretary shall charge and collect such amounts as he may deem reasonable for the investigation of applications for a guarantee, for the appraisal of properties offered as security for a guarantee, or for the issuance of commitments.

"(2) The Secretary shall set a premium charge of not more than 1 per centum per annum for a loan or other obligation guaranteed under this section.

"(d) VALIDITY.—No guarantee or commitment to guarantee an obligation entered into by the Secretary shall be terminated, canceled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Secretary. Such a guarantee or commitment to guarantee shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder as of the date when the Secretary entered into the contract of guarantee or commitment to guarantee, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

"(e) DEFAULT AND RECOVERY.—(1) If there is a default in any payment by the obligor of interest or principal due under an obligation guaranteed by the Secretary under this section and such default has continued for sixty days, the holder of such obligation or his agents have the right to demand payment by the Secretary of such unpaid amount. Within such period as may be specified in the guarantee or related agreements, but not later than forty-five days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid interest on and unpaid principal of the obligation guaranteed by the Secretary as to which the obligor has defaulted, unless the Secretary finds that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

"(2) If the Secretary makes a payment under paragraph (1) of this subsection, he shall have all rights specified in the guarantee or related agreements with respect to any security which he held with respect to the guarantee of such obligation, including, but not limited to, the authority to complete, maintain, operate, lease, sell, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements.

"(3) If there is a defualt under any guarantee or commitment to guarantee an obligation, the Secretary shall notify the Attorney General who shall take such action against the obligor or any other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such obligation shall make available to the United States all records and evidence necessary to prosecute any such suit.

"(f) AUTHORIZATION FOR APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary not to exceed $200,000,000 to pay the interest on, and the principal balance of, any obligation guaranteed by the Secretary as to which the obligor has defaulted: *Provided*, That the outstanding indebtedness guaranteed under this section shall not exceed $200,000,000.

"TESTING AND CERTIFICATION

"SEC. 508. (a) ADMINISTRATOR.—The Administrator of the Environmental Protection Agency shall test, or cause to be tested in a facility subject to his supervision, each production prototype of an automobile developed in whole or in part with Federal financial assistance under this Act, or referred to him for such purpose by the Secretary to determine whether such production prototype complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901), or any other provision of Federal law administered by him. The Administrator shall submit all test data and the results of such tests to the Low-Emission Vehicle Certification Board.

"(b) SECRETARY.—The Secretary shall test, or cause to be tested in an independent facility subject to his supervision, all new production prototypes of automobiles which he or a developer may submit to the Low-Emission Vehicle Certification Board for certification under subsection (c) of this section. Such tests shall be conducted, according to testing procedures to be developed by the Secretary to determine whether each such automobile complies with any standards promulgated as of the date of such testing or reasonably expected to be promulgated prior to sale at retail of such automobile

under any provision of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381), the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), the Automobile Information Disclosure Act (15 U.S.C. 1232), and any other statute enacted by Congress and applicable to automobiles. The Secretary shall also refer any such automobile to the Administrator of the Environmental Protection Agency for testing pursuant to the provisions of subsection (a) of this section. All new automobiles may be submitted to the Secretary for testing under this subsection, including vehicles developed without any Federal financial assistance under this title. The Secretary shall submit all test data and the results of all tests conducted by him or subject to his supervision to the Low-Emission Vehicle Certification Board together with his conclusions and reasons therefor as to whether the automobile tested merits certification as an advanced automobile. The Secretary, or the Administrator of the Environmental Protection Agency, if appropriate, shall conduct, or cause to be conducted, any additional tests which are requested by the Low-Emission Vehicle Certification Board and shall furnish to such Board any other information which it requests or which he deems necessary or appropriate.

"(c) BOARD.—The Low-Emission Vehicle Certification Board, shall, upon application by a developer or by the Secretary and the receipt of test data and test results submitted pursuant to subsections (a) and (b) of this section, issue or deny certification as an advanced automobile. Each determination as to certification shall be made in accordance with such rules and regulations as such Board shall prescribe in accordance with this title. Each application for certification shall be made to the Board in writing in such form and with such content and other submissions as the Board shall require.

"PROPRIETARY INFORMATION AND PATENTS

"SEC. 509. (a) AVAILABILITY.—(1) All research and development contracted for, sponsored, or cosponsored by the Secretary pursuant to this title, shall require, as a condition of Federal participation, that all information—whether patented or unpatented in the form of trade secrets, knowhow, proprietary information, or otherwise—resulting in whole or part from federally assisted research shall be made available at the earliest possible date to the general public, including but not limited to nongovernmental United States interests capable of bringing about further development, utilization, and commercial applications of such results.

"(2) The Secretary, in administering patents pursuant to this title, shall make a determination, in a proceeding conducted in accordance with the provisions of section 553 of title 5, United States Code, as to whether patent licenses shall be granted on a royalty-free basis or upon a basis of charges designed to recover part or all of the costs of the Federal research. The Secretary shall make government patent rights and technological and scientific know-how available on nonexclusive and nondiscriminatory terms to qualified applicants.

"(3) (A) Whenever a participant in an advanced automobile development project holds background patents, trade secrets, know-how, or proprietary information which will be employed in the proposed development project, the Secretary shall enter into an agreement which will provide equitable protection to the rights of the public and the participant: *Provided*, That any such agreement shall provide that when the advanced automobile development project reaches the stage of possible commercial application, any of the participant's previously developed background patents, trade secrets, know-how, or proprietary information reasonably necessary to possible commercial production of an advanced automobile developed under this title will be made available to any qualified applicant on reasonable and nondiscriminatory license terms or in other forms which shall take into account that the commercial viability of the advanced automobile was achieved with the assistance of public funds.

"(B) As employed herein, the term 'background patent' means a United States patent owned or pending by a contractor, grantee, participant, or other party conducting research or development work, or both, pursuant to this title for or under the sponsorship or cosponsorship of the Secretary which would be infringed by the practice of any new technology developed under the research or development work, or both, contracted for, sponsored, or cosponsored pursuant to this title.

"(b) PROTECTION OF RIGHTS.—Whenever the Secretary determines that—

"(1) (A) in the implementation of the requirements of this title under any United States patent, which is not otherwise reasonably available, is reasonably necessary to the development of an advanced automobile pursuant to this title, and

"(B) there are no reasonably equivalent methods to accomplish such purpose, and

"(2) the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Secretary shall so certify to a district court of the United States, which shall review the Secretary's determination. If the district court upholds such determination, the court shall issue an order requiring the person who owns such patent, or rights thereunder, to license it on such reasonable and nondiscriminatory terms and conditions as the court, after hearing, may determine. Such certification may be made to the district court for the district court in which the person owning the patent resides, does business, or is found.

"(c) COMPETITION AND SMALL BUSINESS.—The Secretary shall, in determining license terms, duly consider and give weight to the effects of such terms on competition and small business.

"RECORDS, AUDIT, AND EXAMINATION

"SEC. 510. (a) RECORDS.—Each recipient of financial assistance or guarantees under this title, whether in the form of grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements referred to in such subsection.

"REPORTS

"SEC. 511. On or before August 1 of each year, the Secretary shall submit to Congress an annual report of activities under this title. Such report shall include an account of the state of automobile research and development in the United States, including the number of grants made, and number of loans or other obligations guaranteed, and the progress made in developing production prototypes of advanced automobiles within four years after the date of enactment of this title; and suggestions for improvements in automobile research and development, including recommendations for legislation.

"GOVERNMENT PROCUREMENT

"SEC. 512. The Administrator of General Services shall consult with the Low-Emission Vehicle Certification Board perodically to determine the earliest date at which production prototypes of an advanced automobile will be available. When the Low-Emission Vehicle Certification Board determines that an advanced automobile may soon be available, it shall propose a system of guidelines recommending to any Federal agency using and procuring automobiles the procurement of such automobiles. After a production prototype has been certified by such Board as an advanced automobile, the Board is authorized and directed to prescribe such regulations as are necessary requiring all Federal agencies to procure and to use such advanced automobile to the maximum extent feasible.

"AUTHORIZATION FOR APPROPRIATION

"SEC. 513. (a) AUUTHORIZATION.—There is hereby authorized to be appropriated to carry out the purposes of this title other than section 507 of this title not to exceed $30,000,000 for the fiscal year ending June 30, 1975, not to exceed $50,000,000 for the fiscal year ending June 30, 1976, and not to exceed $60,000,000 for the fiscal year ending September 30, 1977.

"(b) (1) RATIO NOT REDUCED.—Funds expended for each such fiscal year for the purposes of this title and funds expended for such fiscal year for all energy research, development, and demonstration activities shall be in the same ratio as the funds appropriated for such fiscal year pursuant to this title bear to funds appropriated for such fiscal year for all energy research, development, and demonstration activities of the Federal Government.

"(2) For the purposes of this subsection, the term 'energy research, development, and demonstration activities of the Federal Government' includes, but is not limited to—

"(A) the planning, management, and coordination of the energy research, development, and demonstration activities of the Federal Government;

"(B) research, development, and demonstration of coal as an energy source including coal gasification, coal liquefaction, and improved mining techniques;

"(C) research, development, and demonstration of oil shale as an energy source;

"(D) research development, and demonstration of unconventional energy sources including solar energy, geothermal energy, magnetohydrodynamics, fuel cells, low-head hydroelectric power, the use of agricultural products for energy, tidal power, ocean current and thermal gradient power, wind power, electric energy storage methods, solvent refined coal, utilization of waste products for fuels, and direct conversion methods; and

"(E) research, development, and demonstration of new methods of converting fossil fuels into electrical energy.

"RELATIONSHIP TO ANTITRUST LAWS

"SEC. 514. (a) DISCLAIMER.—Nothing herein shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability or to create defenses to actions under the antitrust laws.

"(b) ANTITRUST LAWS DEFINED.—As used in this section, the term 'antitrust laws' includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15,

1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended."

Mr. HART. Mr. President, it is my pleasure to join my distinguished colleagues on the Committee on Commerce, Senator MAGNUSON and Senator TUNNEY, in cosponsoring the Automotive Transport Research and Development Act of 1975. The bill is virtually identical to a provision contained in the National Fuels and Energy Conservation Act of 1973. Unfortunately, that omnibus energy conservation measure did not receive final approval by the Congress, although it did pass the Senate.

There is little doubt that an aggressive research, development, and demonstration program of new automobile technology must be high on our list of national priorities. The oil embargo of a year ago and the necessity of meeting safety, fuel efficiency, and other environmental goals simultaneously speak strongly for an aggressive program.

Hearings before the Committee on Commerce last year amply demonstrated that a great deal stands to be gained from such a program. Not only are new improvements to internal combustion engines possible, for example, through further work on the stratified charge engines, but some of the more exotic alternatives show great promise. For example, Stirling cycle and Rankine cycle engines have the possibility of giving us full compliance with emission standards while offering up to 50 percent improvements in fuel economy from the engine alone. The diesel engine, long a workhorse for hauling heavy loads, likewise offers great promise in passenger car applications. Problems of weight, noise, and performance associated with the diesel need more research.

Data collected by the committee in 1973 on hearings on the Automotive Transport Research and Development Act indicate that the percentage of research and development funds spent on alternate power sources by Ford and Chrysler decreased substantially after 1970. Data was not received from GM. Whereas Ford spent 25 percent of its research dollars on alternate power sources during the period 1967–1969, that figure was reduced to 17 percent during the period 1970–1973. For Chrysler, 17.7 percent of its R. & D. funds were spent on alternate power sources during the period 1967–1969, and only 2.3 percent during the period 1970–1972.

Without making a judgment on the propriety of the auto emission standards contained in the 1970 Clean Air Act, it is apparent that the requirements of that act have caused the automobile makers to devote proportionately less research and development funding to alternative power sources than to internal combustion engines.

It is apparent that the slack is not adequately being taken up. Existing programs within the Environmental Protection Agency, which will now be transferred to the Energy Research and Development Administration, have not received the type of support within the administration necessary to adequately carry on the program. While the President's fiscal year 1976 budget has yet to be submitted, apparently the $7.2 million budgeted for fiscal year 1975 will again be asked for. At the same time, the Commerce Committee hearing record indicates that closer to $100 million per year is necessary. Without the direction and funding provided for in this bill, there is little hope that the support for existing programs will increase.

Clearly, continued improvement in the automobile is far too important to let slide because the automakers, for whatever reason, are not devoting sufficient funds to research and development and that existing programs within the Federal Government are not making up the difference. If we are not to be satisfied with programs like the President's voluntary agreement with the automakers to achieve a 40-percent improvement in fuel economy by model 1981—and there is considerable evidence that we should not—a high level of research and development effort must be initiated.

It is indeed ironic that when substantial improvements in the energy efficiency, safety, and emissions control of the automobile are a high national priority, our capability of developing such an automobile is being severely curtailed. In my view, additional funding must be found and the legislation proposed is an extremely valuable and appropriate response.

By Mr. NELSON:

S. 500. A bill to increase the fees and reduce the financial hardships for those individuals who serve on grand or petit juries in district courts, and for other purposes. Referred to the Committee on the Judiciary.

REMOVING THE DISCRIMINATION IN FEDERAL JUROR FEES

Mr. NELSON. Mr. President, many decades ago, Oliver Wendell Holmes observed that—

> The life of the law has not been logic; it has been experience.

That observation is of particular relevance to consideration of laws governing payment of fees and expenses for those citizens who serve on Federal juries. For experience strongly suggests that there is a fundamental inequity in those laws: for some citizens the minimal juror's fee is their only income while others continue to draw their normal wage or salary.

The financial burdens of jury service—like most of society's problems—weigh most heavily upon those in the lower-income levels. Many of these people simply cannot afford to accept any reduction in their daily income. The result is that many people—especially those in the lower-income levels—cannot perform this duty and privilege of citizens. This, in turn, means that juries often do not reflect a true cross section of the community.

The time has come to end the de facto discrimination of our Federal jury fee system. I am, therefore, introducing a bill to correct this inequity. The bill contains two principal provisions. First, it gears the juror's daily fee to his earning power. Jurors would be paid $25 for each day of service unless the juror's average daily income is greater than that at the time he is selected for jury service. In the latter case, the juror would receive a daily fee which equals his daily earned income. But in no event could the juror's fee exceed $100 per day. Nor could the fee be collected if the juror were paid his or her normal salary or wage. Second, the legislation would raise the level of reimbursement for expenses which a juror incurs. This travel and living provision would simply recognize that the current allotment of 10 cents per mile and $16 for overnight lodging is inadequate to cover actual outlays. The bill would require the Administrator of the U.S. courts to establish a schedule of travel and subsistence allotments based on the amounts provided to other court personnel. This procedure, which has been recommended to Congress by the judicial conference of the United States, would insure that subsistence levels can be increased periodically to account for inflation without the necessity of new legislation.

I introduced comparable legislation in the 93d Congress. The Senate Judiciary Committee held hearings on it and then reported out a bill which increased the juror's daily fee by only $5 and also included the judicial conference's recommendations on travel and subsistence allotments. The bill passed the Senate but did not pass the House.

It is my hope that the Senate will again consider remedial legislation to remove the financial obstacles of jury service.

It is not difficult to understand the need for this legislation. Those who serve on Federal grand and petit juries normally receive $20 a day for their public service. The law provides that the court overseeing the jury's work may raise the fee to $25 after the jury has been sitting for more than 30 days on one case. But that meager sum represents the absolute maximum which any individual can receive for service on a Federal grand jury or petit jury.

For some people—especially those who are retired, unemployed, or living on subsistence wages—a daily fee of $20 or $25 may not cause additional financial hardship. But for many individuals, the $20 represents not only their only income while they sit on a jury; it also represents a substantial decrease in their average daily income. The results are predictable. For these individuals and their families, jury service requires personal financial sacrifices. These financial sacrifices can be quite considerable if the jury service extends for several weeks or months.

The experience of the Watergate grand juries provides a dramatic illustration of the problem. The first grand jury was empaneled in early June 1972 and sat for almost 22 months. During its first 17 months of deliberations, the jurors were paid only $20 for each day they sat. In November 1973, the court authorized an increase in the juror's fee to $25 a day. Some tried to maintain

their regular employment by working after normal business hours. For others, this daily fee was their only source of income for each day of sitting. In some of these latter cases, the daily fee meant a substantial decrease in the daily income the juror was earning before he began jury service.

For these individuals, the economic strain was difficult and in some cases unbearable. Two jurors were forced to leave their regular jobs. Another juror in the second Watergate grand jury—which was empaneled in early 1973—was forced to resign from the grand jury, because his regular business "was going down the drain."

The terms of the Watergate grand juries were, of course, exceptionally long. But the experiences of the individual jurors, and the financial sacrifices many were asked to accept, are not exceptional. The most recent statistics suggest that a Federal grand juror may serve a term averaging as much as 27 days. "The Jury System in the Federal Courts," 205 (1973). A Federal petit juror may serve a term probably averaging about 30 days. Pabst, "Jury Fees, Terms of Service, and Expenses in State and Local Courts," 4 (1974). To appreciate the significant costs of jury service, consider an individual who earns $40 a day, or $10,400 a year. Grand jury service could cost him as much as $600. In other words, it is quite possible that jury service could cost an individual almost 10 percent of his total annual income.

Many, of course, never incur that financial sacrifice when called for jury duty. The reasons are simple. In some cases, as where the individual works for the Federal Government or a large corporation the employer continues to pay the individual when he sits as a juror. It is noteworthy that 9 of the 23 individuals who sat on the first Watergate grand jury were Government employees. Accordingly, while their fellow jurors received $20 a day, these nine were receiving their normal daily salary or wage from their employer. In other words, the present jury fee system tolerates a discrimination whereby some jurors are aksed to make greater financial sacrifices than other jurors.

The discriminatory effect of the current system was aptly summarized by Vladimir Pregelj, the foreman of the first Watergate grand jury, who wrote a letter to me endorsing the proposed legislation. Speaking from his personal experience, Mr. Pregelj stated that—

> In equity and fairness a situation, such as the one prevailing under the present statute, which places a much higher financial burden on some jurors than on others (in terms of daily earnings lost because of jury duty) is intolerably discriminatory. It is certainly considerably more discriminatory than the one that would result from the payment of jurors' fees commensurate with their regular daily earnings. In fact, [your bill's] concept of jurors' compensation is presently already in effect as far as Government employees are concerned (and possibly some private employees as well) who receive their regular salaries instead of the statutory jurors' fees.

Given the financial hardships often associated with jury duty, it is not surprising that many citizens avoid that duty by pleading economic hardship. This point was underscored in a letter to me from Jon Van Dyke, a professor of law at the Hastings College of Law and Research Director of the Twentieth Century Fund's project on the demography of American juries. In his letter, Professor Van Dyke states:

> If a worker is not given his or her salary during jury service, and if that worker asks to be excused, he or she is almost always freed from jury service by the jury commissioner or judge involved. Judge George Hart, the chief judge of the District of Columbia District Court, told me, for instance, that he would excuse anyone who requested an excuse, feeling that a person who had economic problems would not make a good juror.

This reaction was echoed by a California jury commissioner who told Professor Van Dyke:

> Far too many citizens in lower income brackets who are summoned from the voters list, find it an economic impossibility to serve. Young adults starting in the working world and other adults in low income situations, who are not compensated by their employer while serving on jury duty, cannot afford to give up their salary or commission to serve. This becomes even more critical when they have the responsibility for the support of others. Unfortunately this exclusion hits rather heavily at the minority groups, especially Black and Mexican-American citizens, due to their economic situation.

Based on these observations and studies of half of the Federal district courts, Professor Van Dyke was led to conclude that—

> People in the lower economic groups are not able financially to afford jury service, because they are not given their normal salary during jury service and because the $20 they receive from the federal courts is inadequate to meet their financial requirements.

This conclusion may also apply to middle- and upper-income individuals whose employers do not pay them when they sit on juries. This point was suggested by CBS news commentator Daniel Schorr, who wrote an article based on his recent jury experience in the District of Columbia. According to Mr. Schorr, the District of Columbia juries reflect a—

> Leniency in excusing busy professionals, leaving juries weighted with the marginally employed, who welcome the $20 daily fee, the retired, and others out of the mainstream. Jury service has tended to become an activity for those whose regular activities are not valued by society.

In responding to the deficiencies of juror fees, it should be remembered that those fees are not a wage or salary to compensate an individual for his service. Rather, those fees are a gratuity granted by the Government to help defray the costs of jury service. As a justice of the Supreme Court of Michigan commented with regard to a State system:

> There is a fee paid for service of a juror, but this is not to be considered as a wage. It is merely a gratuity covering the expense that a juror may be put to in answering the call.

Jochen v. *County of Saginaw*, 110 N.W. 2d 780, 784 (1961) (Carr, J., concurring opinion). See also 110 N.W. 2d at 788 (Kavanaugh, J., dissenting).

Legislative history over the past few decades suggests that this is the same purpose for which Congress first provided and then increased fees for those who serve on Federal juries. In the 1968 debate on proposed increases in jury fees, for example, Representative Machen stated that the fees were being increased not to provide adequate compensation for services rendered but to insure that jury service might be "less burdensome and exemptions because of economic hardship might be reduced to a minimum."—114 CONGRESSIONAL RECORD 3999 (1968).

The proposed legislation is an attempt to remedy the deficiencies and inherent discrimination of the present jury fee system. It recognizes that different people incur different losses from jury service. And it recognizes that, under the present system, some jurors are paid their normal salary or wage while others are not.

The formula incorporated within the bill is not necessarily perfect. In some cases, an individual's earning power is not stable. Salesmen and seasonal workers are prime examples. For these individuals, it is possible that the bill's formula will not always provide the income which the individual would have earned on those days in which jury service is required. But even for these individuals, the bill will be a significant improvement over the existing jury fee system; their economic losses will almost certainly be less than if they were paid a flat fee of $20 or even $25 a day.

As a result, the bill should virtually eliminate the economic hardship of jury service. In so doing, it will increase the chances that all citizens will have a realistic opportunity to serve on Federal juries and that such juries will adequately represent a cross section of the community. This legislation thus offers a broad remedy to much of the deficiencies in the Federal jury fee system.

The importance of this legislation should not be underestimated. Juries are the glory and genius of our judicial system. They insure that the citizen's perceptions and sense of fairness—not an arbitrary or technical reading of the law—will govern the facts in civil and criminal law suits. Juries help guarantee that an individual's legal rights are not subject to abuse by a prejudiced judge or an oppressive prosecutor. Any measure to improve the viability and integrity of those juries therefore deserves support from everyone in Congress and the Nation.

Mr. President, I ask unanimous consent to have the text of the proposed legislation printed in the RECORD.

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

S. 500

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 "Jury Fee Act of 1975".

SEC. 2. Section 1871 of title 28 of the United States Code is amended in its entirety to read as follows: "§ 1871. Fees.

"(a) GENERAL AUTHORITY.—Grand and

petit jurors in district courts appearing pursuant to chapter 121 of this title shall be paid the fees and allowances as provided by this section. The United States marshall shall pay the requisite fees and allowances on the certificate of the clerk of the court, provided that, as specified in subsections (b), (c), and (e) of this section, proper certification has been made by the court or the judge.

"(b) ATTENDANCE FEE; CERTIFICATION OF ADDITIONAL FEES FOR EXTENDED SERVICE.—Grand and petit jurors in district courts shall receive the following fees:

"For actual attendance at the place of trial or hearing and for the time necessarily occupied in going to and from such place at the beginning and end of such service or at any time during the period of such service, $25 per day, or, if greater, the juror's average daily salary, wage, or other earned income received during the twenty week days immediately preceding the beginning of such juror's service, except that any juror receiving not more than $25 per day who is required to attend more than thirty days of hearings on the same grand or petit jury may be paid, for each day after the thirtieth day of such hearings, in the discretion and upon the certification of the trial judge, or, in cases involving grand juries, the chief judge of the district court for the district in which the grand jury is sitting, an additional fee of $5 per day. The additional fee may be paid retroactively by way of reimbursements. In any case in which a juror is paid a daily fee based on his average daily salary, such fee shall be reduced if, and to the extent that, the juror is paid by his employer or otherwise earned on each such day. Notwithstanding the preceding provisions of this section, no grand or petit juror shall be paid any amount in excess of $100 per day for service on a grand or petit jury.

"(c) TRAVEL ALLOWANCES; TOLL CHARGES; PARKING FEES; TRAVEL IN AREAS OTHER THAN THE CONTIGUOUS STATES OF THE UNITED STATES.—A travel allowance equal to the maximum rate per mile that the Director of the Administrative Office of the United States Courts prescribes pursuant to section 604 (a) (7) of title 28, United States Code, for payment to supporting court personnel in travel status for using privately owned automobiles shall be paid to each juror regardless of mode of transportation. The prescribed rate shall be paid for the distance necessarily traveled to and from a juror's residence by the shortest practicable route in going to and returning from the place of service at the beginning and at the end of the term of service.

"The Director shall promulgate rules regulating interim travel allowances of jurors. Distances traveled to and from court should coincide with the shortest practicable routes.

"Toll charges for toll roads, bridges, tunnels, and ferries shall be paid in full to the juror incurring these charges. In the discretion of the court, reasonable parking fees may be paid to jurors incurring such charges upon presentation of a valid parking receipt. Parking charges shall not be included within any tabulation of mileage costs.

"Any juror who travels to district court pursuant to a summons in an area outside of the contiguous forty-eight States of the United States shall be paid the travel expenses provided under this section or actual reasonable transportation expenses subject to the discretion of the district judge as circumstances indicate, exercising due regard to all available alternative modes of transportation and the shortest practicable routes from home to court.

"(d) SUBSISTENCE ALLOWANCES; SUBSISTENCE IN AREAS OUTSIDE CONTIGUOUS UNITED STATES.—A fixed subsistence allowance covering meals and lodging shall be established from time to time by the Director of the Administrative Office of the United States Courts pursuant to section 604(a)(7) of title 28, United States Code, except that such allowance shall not exceed the maximum allowance for supporting court personnel in travel status, and such claims shall not require itemization.

"Subsistence shall be allowed for the time spent in traveling to and from the place of attendance if an overnight stay is necessitated.

"A subsistence allowance for jurors serving in district courts outside the contiguous forty-eight States of the United States shall be allowed at a rate not exceeding the maximum allowance which is paid to court personnel in travel status in those areas where the Director of the Administrative Office of the United States Courts has prescribed an increased per diem or allowance pursuant to section 604(a)(7) of title 28, United States Code.

"(e) SEQUESTERED JURORS.—Whenever in any situation a jury is ordered to be kept together and not to separate, the actual cost of subsistence during such period shall be paid by the United States marshal upon the order of the court in lieu of subsistence allowances payable under subsection (d). Such allowance for the jurors ordered to be kept separate or sequestered shall include meals and lodging and other necessities for their convenience and comfort.

"(f) REGULATIONS.—The Director of the Administrative Office of the United States Courts shall promulgate such regulations as may be necessary to carry out his authority under this section."

SEC. 3. The amendments made by section 2 of this Act shall apply in the case of any grand or petit jury serving on or after the thirtieth day following the date of enactment of this Act.

By Mr. WILLIAM L. SCOTT:

S. 501. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses. Referred to the Committee on Commerce.

S. 502. A bill to amend title 13, United States Code, to provide certain limitations with respect to the types and number of questions which may be asked in connection with the decennial censuses of population, unemployment, and housing, and for other purposes. Referred to the Committee on Post Office and Civil Service.

S. 503. A bill to transfer to the Attorney General jurisdiction over the District of Columbia penal facilities at Lorton, and for other purposes. Referred to the Committee on the District of Columbia.

Mr. WILLIAM L. SCOTT. Mr. President, I have three bills to send to the desk, ask they be printed and referred to the appropriate committees.

As you know, at the present time broadcasters are forced to operate their businesses with no assurance that their licenses will be renewed in the future, regardless of the fact that their broadcast operations have served the public interest. A broadcaster, who has invested his capital and who has made his best effort to follow FCC regulations and has in fact succeeded in that effort faces the threat that renewal of his license will be denied and awarded to a competing applicant who has made no capital investment and who may well be untested in the communications field. I believe that my proposed bill would resolve this troublesome issue and restore to broadcasters the assurance that performance in the public interest and compliance with the law would warrant license renewal regardless of competition.

The second bill would amend title 13, United States Code, to provide limitations as to the types and number of questions that may be asked in connection with the decennial census. I introduced a similar measure during the last Congress and at this time when the right to privacy is under increasing attack from a variety of sources, including the Government, this proposal would provide Congress with a significant opportunity to move in defense of this important right.

The third bill would transfer to the Attorney General jurisdiction over the District of Columbia penal facilities at Lorton, Va. This proposal is not new to Congress. In fact, it was passed by the House of Representatives as a part of the District of Columbia crime and court reform bill during the 91st Congress; however, it was dropped in conference. As you know, Mr. President, this prison complex is located in Fairfax County, but the State of Virginia has no jurisdiction or control over it. It has been a worrisome problem for many years. The Virginia General Assembly passed a joint resolution memorializing the Congress to undertake corrective action at the prison complex to assure proper administration and security. The Board of Supervisors of Fairfax County have also asked that the Lorton facility be transferred to the Justice Department or closed down within the next 5 years. GAO recently investigated the operation of Lorton and found many examples of mismanagement and very little corrective action be taken by the penal administration to identify or remedy serious security deficiencies. Some action must be taken on this matter. I hope the committee to which the bill is referred will hold hearings and either formally report any bill or find a substitute manner to eliminate this festering sore in Virginia.

By Mr. HELMS:

S. 504. A bill to protect consumers, preserve jobs, and provide emergency relief for natural gas shortages, and for other purposes. Referred to the Committee on Commerce.

NATURAL GAS EMERGENCY PURCHASE ACT OF 1975

Mr. HELMS. Mr. President, the Congress of the United States has before it many proposals to try to solve the energy supply problems in the United States. There are many views, many of them conflicting, about what is to be done. This is particularly so with regard to increasing the supply of natural gas to the consuming States, where no supply is available within the State or offshore.

But even if we resolve these conflicting views immediately, there will be a time lag before new wells can be drilled and brought into production.

Meanwhile, as everyone knows, we are faced with an emergency situation in which natural gas pipeline transmission companies are going deeper and deeper into curtailment. Some pipelines are cur-

tailed more than others because their supplies are going down faster; some of the local distribution companies which buy their gas from the transmission companies are being curtailed more than others, because of the end use to which the gas they sell is ultimately put. Instead of curtailing all users on a pro rata basis, the Federal Power Commission requires curtailment according to a set of priorities based on the end use and the availability of other forms of energy.

Today North Carolina, which is served principally by the Transcontinental Pipeline Corp., of Transco, is suffering a curtailment of 42.95 percent. This creates an energy shortage which goes far beyond anything that alternate fuels or energetic conservation programs can correct. And since North Carolina's industrial base has been created in the past 20 years around Transco's pipeline, it means that very shortly plants will be shut down, processing will stop, fertilizer will no longer be made. People who depend on North Carolina products in other States will also shut down. More important, payrolls will stop, and it will be a very cold, cold in many North Carolina households, unless something is done immediately.

Of course, North Carolina is not the only State that is sharply affected by curtailment. On the Transco pipeline alone, the following curtailments are in effect, in addition to North Carolina's 42.95 percent:

Alabama, 54.70 percent; Georgia, 32.85 percent; South Carolina, 48.19 percent; New York, 21.49 percent; Virginia, 31.68 percent; Maryland, 31.74 percent; Delaware, 31.85 percent; New Jersey, 25.90 percent; and Pennsylvania, 26.84 percent

Some of these States are served by additional pipelines, but in most cases those pipelines are also in curtailment.

The seriousness of the situation and the need for such emergency action is clear. A report of the Bureau of Natural Gas of the FPC on November 15, 1974, projected that natural gas supply deficiencies for major interstate natural gas pipeline companies would be 107 percent greater this winter than last winter. Regarding firm—as opposed to interruptible—curtailments, the anticipated supply deficiencies for September 1974 through August 1975 exceed the actual curtailments for the preceding year by 73.15 percent with 19 pipelines reporting actual firm curtailments. Regarding the curtailment of interruptible sales, the anticipated supply deficiencies for September 1974 through August 1975 will result in an anticipated curtailment of over 58 percent of interruptible loads during that time period.

We cannot wait until Congress debates a long range solution, and until new supplies are brought in. Even if Congress acts tomorrow, it will be 2 to 3 years before we can get relief.

Fortunately, there is a way to get emergency gas, if Congress will immediately pass the emergency legislation which I am about to propose. It is not a long-term solution. The authority is limited to 1 year, although naturally Congress may decide to extend it if the emergency is still existing. But it will bring new supplies of natural gas into the interstate pipelines almost immediately.

North Carolina will have a chance to get immediate help. But every other State on pipelines that have a curtailment in high priority end uses of natural gas will have an equal chance. It is the only way to avoid more plant closings, people out of work, payrolls ending, and critical material shortages across the country.

The principle of my bill is very simple. Despite the nationwide shortages, there are short-term supplies of natural gas available in some of the producing States. This gas is not available in the interstate market because Federal regulations have kept the price of interstate gas artificially low. The intrastate gas has an unregulated price but this price has stabilized at approximately the price for the equivalent price per Btu for oil. Some of this gas is new gas which is excess to present intrastate commitments or is waiting for pipelines to be built or for some other reason is available. But the producers are not willing to sell this gas in the interstate market because the interstate price is artificially depressed by Federal regulation, and because the Federal regulations also prohibit them from withdrawing such gas from the interstate market once it has been committed.

There is, however, a solution. That solution is to permit the available intrastate gas to be sold in the interstate market for limited short term periods at the normal intrastate rates. Naturally, the amount of gas made available on an emergency basis could not fill all the high priority needs that are presently in curtailment. But the availability of this gas could mean the difference between acute distress and a manageable situation.

There is no doubt that this proposal will work. The method has been tested already. It was put into operation last winter by FPC regulation. It provided more than 172 million cubic feet of natural gas last year. But recent court decisions have cast a cloud over the FPC's authority to continue such emergency sales. My legislation would clearly provide that authority to the FPC to allow such sales for a period of 180 days, renewable for one more period only of 180 days.

It was because of a proper realization of the serious need for an increased availability of natural gas in the interstate market that the Federal Power Commission issued order No. 491 on September 14, 1973. It issued this order pursuant to section 7(c) of the Natural Gas Act (15 U.S.C. § 717f(c)) which provides in pertinent part as follows:

> (The Commission) may by regulation exempt from the requirements of this section temporary acts or operations from which the issuance of a certificate will not be required in the public interest.

However, despite this action by the FPC responding to the public interest in the availability of natural gas in the interstate market, the matter has been embroiled in court litigation testing the authority of the FPC to take such action. On October 3, 1973, the U.S. Court of Appeals for the District of Columbia Circuit stayed order No. 491 pending final action by the Commission after receipt of the public comments on a subsequent FPC order regarding the rate at which emergency volumes of such gas would be committed to interstate pipelines.

On November 2, 1973, the FPC issued a third order in this series which reaffirmed the extension of the emergency purchase period to 180 days. The court stay was thus vacated. Again, on December 10, 1973, the U.S. Court of Appeals for the District of Columbia Circuit granted a stay of the FPC order, which stay was subsequently vacated by the Supreme Court of the United States on December 20, 1973. At present, the litigation goes on, the future is uncertain, curtailments persist, and serious hardships are apparent.

The FPC's present position is that while they favor the 180-day period for emergency sales, "in view of the uncertainty over the legality of our past procedures which has been generated by the appeal of order Nos. 491, et sequitor, and extension from 60 to 180 days for emergency sales at this juncture would be questionable value in the elicitation of these needed additional supplies of gas."

Fortunately, Congress has the authority to remedy this particular situation. It can obviate the need for further litigation over this question, and in so doing, it can put an end to this unfortunate circumstance where one segment of the Government is preventing another from providing emergency assistance where it is so greatly needed. It can do so by passing the bill that I am introducing today, the "Natural Gas Emergency Purchase Act of 1975."

Briefly, this bill provides clarity where ambiguity has previously existed. It amends section 7(c) of the Natural Gas Act (15 U.S.C. § 717f(c)) to provide that the Federal Power Commission shall, by regulation, exempt from the provisions of the Natural Gas Act the sale of such gas to an interstate natural gas pipeline company which is curtailing deliveries pursuant to a curtailment plan on file with the Commission, and which does not have sufficient supply of natural gas to meet the firm requirements of the ultimate consumers on such pipeline system. Of course, boiler fuel consumers would not be included in this group, because they can find alternative fuels. Such exemption could not exceed 180 days, but the FPC, for good cause shown, could extend the original period for an additional 180 days. Finally, the bill provides that interstate natural gas pipeline companies that purchase such exempted natural gas shall not be denied the right to recover all or any part of the purchase price paid for such gas. In other words, the pipeline companies would be allowed to pass through any increased costs that may result from the purchase of exempted gas.

Now, one immediately raises the question of where the burden of any such increased costs will ultimately fall. I am advised that once interstate natural gas

enters the State where it is to be consumed, the retail price is regulated by the various State utilities commissions. It would be up to the utilities commission in each State to determine the rate such gas shall be sold for in the retail market. Since home users of natural gas are currently receiving an adequate supply because they enjoy the highest priority level, it would seem that the increased costs should not be assigned to them, but rather it should be assigned to the industrial users who benefit from the increased availability of natural gas. However, as stated, this is a matter for the various State utilities commissions to determine.

Finally, if this bill becomes law, how much natural gas will actually be made available on the interstate market? Because of the fluctuations in production levels, it is impossible to respond with great certainty. However, we can examine past experience and draw some conclusions. FPC Order Nos. 491, et sequentes, were very successful in bringing supplies of natural gas to the interstate market that would not otherwise have been available during the 1973–74 winter season. Under these orders, there were over 500 sales made and over 172 million Mcf committed to the interstate market between September 1973 and September 1974. This includes approximately 25 million Mcf of sales made by intrastate pipelines to interstate pipelines. This was under the 180-day provision.

By comparison, in the period between September 1972 and September 1973, the 60-day emergency sales period only accounted for 89 million Mcf of gas. Thus, the extension from the 60 to 180 days for emergency sales accounted for over 80 million Mcf of additional sales. Such additional volumes of gas on the interstate market would be of tremendous aid in eliminating at least a portion of the existing supply deficiencies and the resulting economic problems related to such deficiency.

For Congress to clearly define the authority for the Federal Power Commission to allow such emergency sales for a full period of 180 days, with the authority to extend such period for a like term, would be a very substantial measure in protecting the environment from the abusive effects of alternative fuels, and it would greatly alleviate fears of unemployment and economic hardship.

Mr. President, I have supplied a copy of this bill to two of my distinguished colleagues in the House of Representatives, Mr. JAMES T. BROYHILL and Mr. JAMES G. MARTIN. It is my understanding that they will introduce my bill in the House of Representatives today. They and other members of the North Carolina delegation in that body have been diligently seeking relief for the crisis that now exists in my State, and in other States. I commend them for their interest and I thank them for their cooperation.

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

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

S. 504

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 "Natural Gas Emergency Purchase Act of 1975".

SEC. 2. That section 7(c) of the Natural Gas Act is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) Within 15 days following the enactment of this paragraph, the Commission shall, by regulation, exempt from the provisions of this Act the sale of natural gas not committed to interstate commerce to an interstate natural gas pipeline company which is curtailing deliveries pursuant to a curtailment plan on file with the Commission, and which does not have sufficient supply of natural gas to meet the firm requirements of the ultimate consumers on such pipeline system exclusive of boiler fuel. No exemption granted under this paragraph shall exceed one hundred and eighty days in duration, but any such exemption may, for good cause shown, be extended for an additional one hundred and eighty days. Interstate natural gas pipeline companies which purchase such gas under this exemption, or any extension thereof, pursuant to Commission regulations, shall not be denied by the Commission the right to recover all or any part of the purchase price paid for such gas.".

By Mr. CHURCH:

S. 505. A bill entitled the United States Petroleum Import Act. Referred to the Committee on Finance.

AN ALTERNATIVE TO THE FORD ADMINISTRATION ENERGY PROGRAM

Mr. CHURCH. Mr. President, I am today introducing a bill to establish a U.S. Petroleum Import Administration to control imported oil, gradually reduce imports from the OPEC cartel, allocate available supplies, including mandatory rationing, if necessary, and conserve energy by imposing an excise tax on automobiles related to fuel efficiency, together with an increase in the amount of the Highway Trust Fund that may be used for mass transit purposes. This program is an alternative to President Ford's proposed energy program.

WHAT IS WRONG WITH THE FORD PROGRAM

What is wrong with the Ford energy program is that it is worse than no program at all. It is confused as to its objectives and harmful to the American economy, all without any clear compensating benefits.

In the course of the past year, the cartel of oil producing exporting countries—OPEC—has increased the price of crude oil by 500 percent, increasing costs to the consuming nations by $80 billion. U.S. costs alone in 1974 were $14 billion higher for imported oil than for a similar quantity the year before. In November 1974, Secretary of the Treasury Simon stated:

> The costs imposed on the world economy by exorbitant oil prices are both severe and extensive. They make our battle against inflation more difficult and the inflation more virulent. . . . I can think of no single change that would more improve the outlook for the world economy than a substantial decrease in the price of oil.

In the same month, Secretary of State Kissinger warned:

> Nor can consumers finance their oil bill by going into debt to the producer without making their domestic structure hostage to the decisons of others. Already, producers have the power to cause major financial upheavals simply by shifting investment funds from one country to another or even from one institution to another. The political implications are ominous and unpredictable. Those who wield financial power would sooner or later seek to dictate the political terms of new relationships.

The Chairman of the Federal Reserve Board, Arthur Burns, also in November, further noted that:

> Preoccupation with "recycling" techniques has had the unfortunate effect of diverting attention from the fundamental need to bring down the price of oil.

Thus, the chief administration spokesmen, Secretaries Kissinger and Simon, and the prestigious Chairman of the Federal Reserve Board, in the course of a single month all emphasized that the primary objective of U.S. oil policy must be to bring down the OPEC-mandated price of international oil.

OPEC now has shut in its capacity by 8 MBD. The cutbacks have largely been absorbed by the countries with relatively small populations. Saudi Arabia is presently producing 8.5 MBD. Along with Kuwait, it now appears that any significant additional cutback would have to be absorbed by Saudi Arabia, Kuwait, and the smaller Persian Gulf sheikdoms. Historically, however, Saudi Arabia has never been willing to produce less oil than its rival, Iran, which is now producing at roughly the level of 6 MBD. It is conceivable, then, that a reasonable target would be to reduce OPEC imports—by a minimum of at least 4 or 5 MBD worldwide. Conceivably, this would bring about the situation that the OPEC cartel has never successfully managed—prorationing production cutbacks among states with diverse population characteristics and political ambitions. Put in this kind of strategic framework, such a conservation target would be understandable and I believe supported by the Congress and the American people.

But we have heard no such rationale or strategy from the administration. Rather, we are asked to accept sacrifice in the form of heavy new tariff and excise taxes on petroleum in the hope of reducing oil consumption, but without any clear strategic objective in mind. Moreover, the means chosen will not accomplish even the President's stated objective of achieving a 2-million-barrel-per-day reduction in oil consumption.

The anticipated 10 or 12 cents per gallon price increase of gasoline which would result from implementation of the President's program would barely make a dent in current consumption of gasoline. According to a study of the Joint Economic Committee, even a 30-cents-per-gallon price increase would result in only a 500,000-barrel-per-day cutback in consumption. Commonsense suggests that most consumers have already begun to remove the most obvious and least painful forms of energy waste from their daily lives. Consequently, those who can will pay the higher prices because at this point they need the oil. People must heat

their homes; they must drive to work in areas where mass transit is inadequate or unavailable. They will not be dissuaded from doing these things by a 12-cents-per-gallon increase in the cost of fuel.

Additionally, there is no reason to believe that higher domestic prices would stimulate greater domestic production. All newly discovered domestic oil is presently sold at the uncontrolled world price of about $11 per barrel. In addition, for every barrel of "new" oil which is produced, one barrel of "old" oil which is price controlled at $5.25 per barrel may be sold at the uncontrolled price. Thus, the real marginal price of every barrel of new domestic oil is almost $17 per barrel. Further increases in the domestic price are, therefore, hardly necessary to spur new oil discoveries.

The President's program would have catastrophic consequences for the American economy. According to the administration's own spokesmen, the Ford energy program would have severe contractionary effects on the economy, since it would remove $45 to $50 billion from the stream of consumer purchasing power in higher fuel costs. No one has yet shown how any amount even close to this staggering figure will be returned to the American people through the tax cuts the President recommends.

At the same time, the inflationary effects of the Ford program are clear. Specifically, the American family would pay an estimated minimum of $345 more a year in direct energy costs, at least 10 cents a gallon more for gasoline, 10 cents a gallon more for heating oil and up to 30 percent for electricity. And there would be further price increases resulting from higher transportation and manufacturing costs for industry, almost impossible to calculate. Dr. Otto Eckstein, a former member of the Council of Economic Advisors, estimates that the President's plan in its first year would drive the cost of living up by almost 4 percent.

The economic folly of this policy is clearly spelled out in the Project Independence report issued by the Ford administration in November 1974. That Report thus states, "at $11/bbl, economic growth is projected to recover slowly from its present low rate . . . despite the stimulating effect of high oil prices on investment in energy production, the dampening effect on investments in other sectors would be so great that growth would be inhibited relative to the $7 per barrel case." (p. 319)

Not only does the Ford administration embrace the OPEC policy of $11 per barrel of oil, it goes one step further and hijacks the price from $11 to $14 per barrel, thus saddling this country with a high cost base energy price of aproximately $14 per barrel.

In other words, in order to deal with the catastrophic effects of the OPEC mandated price increase so eloquently described by the administration spokesmen in November 1974, President Ford, in January 1975, proposes to impose an equally catastrophic additional oil price rise upon the American economy. In effect, he has given OPEC the perfect argument to raise oil prices still further.

AN ALTERNATIVE PROGRAM

I agree with Secretary of State Kissinger, Arthur Burns and Secretary of the Treasury Simon that the policy of the U.S. Government ought to be directed towards bringing about a substantial lowering of the $11-per-barrel OPEC price of imported oil. As an initial goal, we ought to aim for a price in the range of $7 per barrel, the price at which the FEA Project Independence study states the impact on growth would be expected to be positive and real and a price at which studies have shown alternative energy sources are economic. Moreover, $4 reduction in the OPEC mandated price would lead to a $40 billion decrease in the worldwide transfer of resources to the OPEC cartel.

U.S. PETROLEUM IMPORT ADMINISTRATION

The key to achieving this objective is effective U.S. Government control over import policy, not the indirect and ineffective mechanism proposed by the administration. In order to achieve this control, I am submitting today a bill to create a U.S. Petroleum Import Administration. This agency would have the exclusive right to import crude oil and products into the United States. It would thus set the level of imports in accordance with congressionally mandated guidelines. Those guidelines would initially set a target of reducing oil imports from the present level of about 7 million barrels per day to 4.5 million over the next 3 years, the same time period in which the President hopes that consumption cutbacks will result in a reduction of 2 million barrels per day. Instead of hoping, the creation and operation of such a Federal purchasing agency would provide the U.S. Government, for the first time, with an effective instrumentality to achieve the objective.

The agency could operate in basically three ways or a combination of them: it could seek to maximize bargaining leverage with individual oil producing governments by offering access to a major market to new entrants in return for lower prices. Rather than direct bargaining with individual governments, it could offer access to this market on a sealed-bid basis, rewarding the lowest bidder. Finally, it could sell tickets to potential importers on a sealed-bid basis and then allow the ticketholder to negotiate directly with oil producers for imports—the so-called Adelman plan. In effect, such an agency would have a clear mandate to achieve the cheapest level of imports possible and maximum flexibility to achieve this objective.

This agency would thus free us from the existing arrangements among multinational oil corporations and oil producing foreign governments in which the companies secure preferred access to the crude and, in return, guarantee outlets for that crude, rather than shopping for the cheapest crude.

The agency would then allocate on a geographically equitable basis the crude oil it purchases.

In this way, we would be attacking the problem at the critical point—import policy—rather than coming at it backwards through the indirect effect on imports that may result from a Rube Goldberg set of tax increases.

The legislation I am introducing also contains the following elements:

A staged reduction in imports. The legislation provides that between 1975 and 1977, the United States import 2.5 Mbbl/d less than the present 7 Mbbl/d import level. In other words, by January 1, 1978, the United States should be importing no more than 4.4 Mbbl/d. As the FEA Project Independence study states:

> Unlike the reduction in demand brought about by embargoes, there is no necessary relation between the institution of an energy conservation policy and real economic growth.

This phased stepdown in imports will allow a transition phase for the economy to adjust to the reduced level of petroleum.

If the OPEC imports cannot be replaced by increased domestic production, alternative energy sources, or non-OPEC imports at reasonable prices, then the reduced supply will have to be allocated on an equitable basis and it is likely that we shall have to adopt a system of rationing. Authority already exists for geographical allocation of existing supplies. My bill would add: (a) standby rationing authority and (b) mandatory rationing once the Federal Energy Administrator certifies that total oil availability—domestic and foreign sources—is not more than 16 Mbbl/d. The legislation would permit the establishment of a so-called "white" rationing system in which coupons could be freely traded or sold but is different from the system described in the Federal Energy Administration Fact Sheet of January 24, 1975, in that it recognizes that gasoline usage differs in accordance with the different characteristics of geographical regions of the country. The legislation thus requires the President to designate regions as a. the President to designate regions as (a) urban, (b) suburban, and (c) rural. Rural and suburban areas would be entitled to larger allocations of gasoline to reflect the long distances and lesser availability of mass transit facilities.

On the other hand, the legislation contains provisions which impose an excise tax on automobiles related to fuel economy usage. It also amends the highway trust fund legislation to provide $1 billion more than is presently authorized under existing legislation to be applied to subsidized financing of buses by municipalities, railroad capital stock and improvement of roadbed. These provisions thus constitute a significant incentive to a necessary shift in the American life style away from excessive and unrealistic dependence upon the gas guzzling large automobiles. At the same time, it provides a needed stimulus to employment and capital investment in previously neglected areas of the American economy.

This bill thus represents a fundamental departure from the administration's approach: It directly attacks the problem at its most critical point—reducing the level of OPEC imports. It also directly addresses the conservation side of the problem by authorizing: First, an equitable system of gasoline rationing which recognizes the differing geographic characteristics of the country; second, begins the necessary shift in American consumption patterns by imposing an excise

tax where it belongs, on the big fuel inefficient automobiles; and third, gives a boost to mass transit facilities by increasing by $1 billion the amount of the highway trust fund that may be used for that purpose. In so doing, it creates jobs and capital investment where they will do the most good.

This, then, is a program which identifies the problem that needs to be attacked, and then attacks it directly in a clear and understandable way.

By Mr. CHURCH:

S. 506. A bill to amend the Water Resources Planning Act to extend the authority for financial assistance to the States for water resources planning. Referred to the Committee on Interior and Insular Affairs.

Mr. CHURCH. Mr. President, I send to the desk for appropriate reference a bill to amend the Water Resources Planning Act of 1965 to remove the termination date for the existing program of Federal assistance to the States to finance water resources planning.

In my estimation, the Water Resources Planning Act was a landmark in Federal water resources policy. Since enactment of this legislation our ability to meet the increasing demands upon the Nation's limited water resources has greatly improved.

Perhaps the most significant aspect of the act is the emphasis upon State participation in the planning and management of water resources. This participation is accomplished through provisions calling for coordinated planning and financial assistance to the States. These assistance funds, which are matched by the States, have helped to support State water resource agencies and programs to meet greater and more varied demands.

The authority contained in title III of the act for annual planning grants to the States is limited to 10 fiscal years following the date of enactment. The authority for such appropriations, therefore, will expire with the fiscal year 1976 budget. It is timely for the Congress to consider the future of the program. The State agencies and the programs which are partially funded from title III are essential to proper water resource planning and development; their future must be assured. It is only proper that those States most directly involved should have assurances that Federal funds will continue to be available.

I am introducing this measure today as a basis for the Subcommittee on Energy Research and Water Resources of the Senate Interior Committee to obtain the views of the executive agencies on this matter and to begin consideration of the future of the planning grant program.

By Mr. HASKELL (for himself, Mr. JACKSON, and Mr. METCALF):

S. 507. A bill to provide for the management, protection, and development of the national resource lands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

NATIONAL RESOURCE LANDS MANAGEMENT ACT

Mr. HASKELL. Mr. President, I introduce, for myself, Mr. JACKSON, and Mr. METCALF, the National Resource Lands Management Act. This bill, often referred to as the "BLM Organic Act," would provide the first comprehensive statement of congressional goals, policies, and authority for the use and management of 451 million acres of federally owned lands administered by the Secretary of the Interior through the Bureau of Land Management.

Throughout most of our Nation's history the national resource lands have been called the "public domain." The public domain is the "landed estate" of the American people. Originally including practically all the land with the boundaries of the first 48 States except Texas and the 13 Colonies, it has always constituted the largest system of Federal lands.

Wallace Stegner, the noted man of letters and historian, has admirably summarized the public domain's early history:

> As a fact, the public domain dates from October 30, 1779, when Congress requested the states to relinquish in favor of the federal government all claims to the unsettled country between the Appalachians and the Mississippi. As a problem, it dates from the Act of Congress of May 18, 1796, which authorized the appointment of a surveyor-general and the survey of the Northwest Territory. As the responsibility of a special branch of government, it was created with the General Land Office in April, 1812, eight and a half years after Jefferson's Louisiana Purchase has superimposed mystery upon wilderness, and added unmeasured millions of acres, unrealized opportunities, and unpredictable headaches to the national inheritance.

For over a century and a half this vast land mass was woefully neglected. The General Land Office, under the Treasury Department until creation of the Department of the Interior in 1849, defined its primary responsibilities to be the surveying and conveying of the land. Over 1 billion acres were transferred out of Federal ownership by means of grants to States and railroads, sales to private owners, homestead acts, and various other disposal methods. The land which remained lacked any consistent management with the inevitable result that vast acreages suffered extensive damage from overgrazing of livestock and wasteful settlement and farming practices—and, even today much of that damaged land has yet to benefit from natural or man-aided restorative processes.

It was only with the passage of the Taylor Grazing Act in 1934, which established the Grazing Service to manage grazing districts authorized under the act and which provided land classification authority, that the general policy of Federal land disposal and the failure to accept land management responsibilities was abandoned. Acceptance of a policy of retention and management of the Federal lands was further manifested in 1946 in the creation of the Bureau of Land Management as the successor to both the General Land Office and the Grazing Service.

Despite this long overdue acceptance of retention and long-term management philosophies for the public domain, to some extent we are still neglecting this vast national resource. This neglect can be overcome only by the passage of the National Resource Lands Management Act.

To best express the need for this legislation, I would like to speak from personal experience. Shortly after taking my first oath of office as a Senator in January of 1973, I had the double good fortune of being assigned to the Senate Interior Committee—a committee with extensive authority in both the environmental and energy areas—and being designated as chairman of the Subcommittee on Public Lands, now the Subcommittee on the Environment and Land Resources—the subcommittee with jurisdiction over, among other things, the national resource lands.

It did not take me long, once I had assumed the subcommittee chairmanship, to realize the importance of the national resource lands. These lands constitute one-fifth of our entire land base and two-thirds of all Federal lands. They contribute significant resources—in the form of water, timber, minerals, fuels, and livestock—to our economy and large sums of money to the Federal, State, and local treasuries. Finally, they possess an almost endless array of scenic and recreational resources the potential of which has not yet been fully realized.

However, with a sense of dismay, I must report that it took me longer to fully realize the importance of the legislation I introduce today. When it was introduced by the chairman of the Interior Committee and referred to the Environment and Land Resources Subcommittee in 1973, I initially regarded it as nothing more than a general housekeeping measure—and like most Americans I am always prepared to put off the housekeeping until another day.

The importance of the legislation first became apparent to me when I realized that the Bureau of Land Management is the only major Federal land agency without a modern statutory mandate. Over the years, the Congress has established a comprehensive statutory base of goals, objectives, and management authority for the newer and smaller land systems: the national park, forest, and wildlife refuge systems. Yet no similar legislative foundation exists for the national resource lands. The existence of the Forest Service's Organic Act of 1897 and Multiple Use-Sustained Yield Act of 1960 and the Park Service's Organic Act of 1916 not only makes the lack of a BLM Organic Act more conspicuous in its absence, but also provides convincing evidence of the embarrassing failure of Congress to complete the legislative task of providing a comprehensive statutory base for the management of all our public lands.

The only management tools available to the BLM remain some 3,000 public land laws which have accumulated over the last 170 years. A goodly proportion of these laws were written in the last century at a time when the disposal policy prevailed. Not unexpectedly, therefore, these laws are often conflicting, sometimes truly contradictory, and certainly incomplete and inadequate.

Mr. President, through hearings on the legislation last Congress and in numerous conversations I have had with other Senators, Interior Department officials, and citizens of my home State of Colo-

rado, I have learned that the lack of land management authority available to the Secretary of the Interior as a result of his dependence upon this uncertain set of laws is indeed frightening.

In the vacuum created by the absence of this authority, the unnecessary waste and destruction of our country's most valuable resource—its land—is almost awesome in its dimensions. Vast areas are eroding from vehicular overuse and misuse priceless petroglyphs and other archeological treasures are dug up or literally blasted off of rock walls and carted off for sale in stores in Los Angeles, Salt Lake City, and other Western communities; BLM facilities are defaced, burned, or dynamited; significant, private land-locked tracts of national resource lands are serving as private preserves for a few select people in the absence of any means to obtain public access; destruction of the land and its facilities by users occurs without any requirement that those users restore them or post a security sufficient to insure their restoration.

Mr. President, these and other examples of the degradation of our public domain land due to the fact that the BLM lacks an adequate statutory base to protect them make our continuing failure to enact the necessary legislation an embarrassment and, worse, a derelection of duty. Certainly, there is no more fundamental responsibility of a public official than to husband public assets—be they land or money. Unless we promptly enact this legislation we will have failed that principal responsibility.

Mr. President, I am particularly grateful that the distinguished chairman of the Interior Committee joins me in introducing this bill. He introduced the first National Resource Lands Management Act on February 4, 1970, the year the report of the Public Land Law Review Commission was submitted. Senator JACKSON has since been the principal proponent of this legislation. He has three times from the Interior Committee and passed twice by the Senate. Under his effective leadership, each successive version of the legislation has become stronger and enjoyed wider support. The chairman deserves plaudits for his longstanding dedication to the enactment of this measure.

Mr. President, I cannot stress enough the urgent need for this long overdue legislation. I pledge to my colleagues early action upon this measure by the Subcommittee on the Environment and Land Resources. I expect, as well, prompt response by the full Interior Committee which reported the measure by unanimous vote, and by the Senate which passed it by a 71-to-1 vote, last Congress. I urge the House to join this Congress in giving the measure the full consideration it merits.

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

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

S. 507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "National Resource Lands Management Act".

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Sec. 505. Repeal of laws relating to rights-of-way.

SEC. 2. DEFINITIONS.—As used in this Act:

(a) "The Secretary" means the Secretary of the Interior.

(b) "National resource lands" means all lands and interests in lands (including the renewable and nonrenewable resources thereof) now or hereafter administered by the Secretary through the Bureau of Land Management, except the Outer Continental Shelf.

(c) "Multiple use" means the management of the national resource lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and non-renewable resources, including recreation and scenic values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment, with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) "Sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of land without permanent impairment of the quality and productivity of the land or its environmental values.

(e) "Areas of critical environmental concern" means areas within the national resource lands where special management attention is required when such areas are developed or used to protect, or where no development is required to prevent irreparable damage to, important historic, cultural, or scenic values, or natural systems or processes, or life and safety as a result of natural hazards.

(f) "Right-of-way" means an easement, lease, permit, or license to occupy, use, or traverse national resource lands granted for the purposes listed in title IV of this Act.

(g) "Holder" means any State or local governmental entity or agency, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title IV of this Act.

SEC. 3. DECLARATION OF POLICY. (a) Congress hereby declares that—

(1) the national resource lands are a vital national asset containing a wide variety of natural resource values;

(2) sound, long-term management of the national resource lands is vital to the maintenance of a livable environment and essential to the well-being of the American people;

(3) the national interest will be best realized if the national resource lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts; and

(4) except where disposal of particular tracts is made in accordance with title II, the national interest will be best served by retaining the national resource lands in Federal ownership.

(b) Congress hereby directs that the Secretary shall manage the national resource lands under principles of multiple use and sustained yield in a manner which will, using all practicable means and measures: (i) assure the environmental quality of such lands for present and future generations; (ii) include, but not necessarily be limited to, such uses as provision of food and habitat for wildlife, fish and domestic animals, minerals and materials production, supplying the products of trees and plants, human occupancy and use, and various forms of outdoor recreation; (iii) include scientific, scenic, historical, archeological, natural ecological, air and atmospheric, water re-

source, and other public values; (iv) include certain areas in their natural condition; (v) balance various demands on such lands consistant with national goals; (vi) assure payment of fair market value by users of such lands; and (vii) provide maximum opportunity for the public to participate in decisionmaking concerning such lands.

SEC. 4. RULES AND REGULATIONS.—The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the Administrative Procedure Act (60 Stat. 237), as amended. Prior to the promulgation of such rules and regulations, the national resource lands shall be administered under existing rules and regulations concerning such lands.

SEC. 5. PUBLIC PARTICIPATION.—In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for the preparation and execution of plans and programs concerning, and in the management of, the national resources lands.

SEC. 6. ADVISORY BOARDS AND COMMITTEES.—In providing for public participation in planning and programing for the national resource lands, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, may establish and consult such advisory boards and committees as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards and committees shall be representative of a cross section of groups interested in the management of the national resource lands and the various types of use and enjoyment of such lands.

SEC. 7. ANNUAL REPORT.—The Secretary shall prepare an annual report which he shall make available to the public and submit to Congress no later than 120 days after the close of each fiscal year. The report shall describe, in appropriate detail, activities relating or pursuant to this Act for the fiscal year just ended, any problems which may have arisen concerning such activities, and other pertinent information which will assist the accomplishment of the provisions and purposes of this Act. The report shall contain a detailed list and description of all transfers of national resource lands out of Federal ownership for the fiscal year just ended. It shall include such tables, graphs, and illustrations as will adequately reflect the fiscal year's activities, historical trends, and future projections relating to the national resource lands.

SEC. 8. DIRECTOR.—Appointments made on or after the date of the enactment of this Act to the position of the Director of the Bureau of Land Management, within the Department of the Interior, shall be made by the President, by and with the advice and consent of the Senate. The Director shall have a broad background and experience in public land and natural resource mnagement.

SEC. 9. APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act.

TITLE I—GENERAL MANAGEMENT AUTHORITY

SEC. 101. MANAGEMENT.—The Secretary shall manage the national resource lands in accordance with the policies and procedures of this Act and with any land use plans which he has prepared, pursuant to section 103 of this Act, except to the extent that other applicable law provides otherwise. Such management shall include:

(1) regulating, through permits, licenses, leases, or such other instruments as the Secretary deems appropriate, the use, occupancy, or development of the national resource lands not provided for by other laws: *Provided, however,* That no provision of this Act shall be construed as authorizing the Secretary to require any Federal permit to hunt or fish on the national resource lands;

(2) requiring appropriate land reclamation as a condition of use, and requiring performance bonds or other security guaranteeing such recalamation in a timley manner from any person permitted to engage in an extractive or other activity likely to entail significant disturbance to or alteration of the national resource lands;

(3) inserting in permits, licenses, leases, or other authorizations to use, occupy, or develop the national resource lands, provisions authorizing revocation or suspension, after notice and hearing, of such permits, licenses, leases, or other authorizations, upon final administrative finding of a violation of any regulations issued by the Secretary under any Act applicable to the national resource lands or upon final administrative finding of a violation on such lands of any applicable State or Federal air or water quality standard or implementation plan: *Provided,* That the Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect public health or safety or the environment: *Provided further,* That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the national resource lands, the specific provisions of such law shall prevail; and

(4) the prompt development of regulations for the protection of areas of critical environmental concern.

SEC. 102. INVENTORY.—(a) The Secretary shall prepare and maintain on a continuing basis an inventory of all national resource lands, and their resource and other values (including outdoor recreation and scenic values) giving priority to areas of critical environmental concern. Areas containing wilderness characteristisc as described in section 2(c) of the Act of September 3, 1964 (78 Stat. 890), shall be identified within five years of enactment of this Act. The inventory shall be kept current so as to reflect changes in conditions and in identifications of resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change in the management or use and national resource lands.

(b) The Secretary, where he determines it to be appropriate, may provide (i) means of public identification of national resource lands, including signs and maps, and (ii) State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in the proximity of national resource lands.

SEC. 103. LAND USE PLANS.—(a) The Secretary, shall, with public participation, develop, maintain, and, when appropriate, revise land use plans for the national resource lands consistent with the terms and conditions of this Act and coordinated so far as he finds feasible and proper, or as may be required by the enactment of a national land use policy or other law, with the land use plans, including the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), of State and local governments and other Federal agencies.

(b) In the development and maintenance of land use plans, the Secretary shall:

(1) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and social sciences;

(2) give priority to the designation and protection of areas of critical environmental concern;

(3) rely, to the extent it is available, on the inventory of the national resource lands, their resources, and other values;

(4) consider present and potential uses of the lands;

(5) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(6) weigh long-term public benefits; and

(7) consider the requirements of applicable pollution control laws including State or Federal air or water quality standards, noise standards, and implementation plans.

(c) Any classification of national resource lands in effect on the date of enactment of this Act is subject to review in the land use planning process and such lands are subject to inclusion in land use plans pursuant to this section.

(d) Wherever any proposed change in the classification of, or permitted uses on, any national resource lands would affect authorization for use of such lands, persons holding leases, licenses, or permits concerning the use to be affected shall be given written notice by the Secretary of such proposed change at least sixty days before it is put into effect.

(e) Areas identified pursuant to section 102 as having wilderness characteristics shall be reviewed within fifteen years of enactment of this Act pursuant to the procedures set forth in subsections 3 (c) and (d) of the Act of September 3, 1964 (78 Stat. 892–893): *Provided, however,* That such review shall not, of itself, either change or prevent change in the management or use of the national resource lands.

SEC. 104. RECORDATION OF MINING CLAIMS.—(a) Each mining claim under the Mining Law of 1872, as amended (Revised Statutes 2318–2352), shall be recorded by the claimant with the Secretary within two years after the date of enactment of this Act or within thirty days of location of the claim, whichever is later. Any claim not so recorded shall be conclusively presumed to be abandoned and shall be void.

(b) Any claim recorded pursuant to subsection (a) for which the claimant has not made application for a patent within five years after the date of enactment of this Act or the date of location of a claim, whichever is later, shall be conclusively presumed to be abandoned and shall be void.

(c) Such recordation or application shall not render valid any claim which was not valid on the date of enactment of this Act, or which becomes invalid thereafter.

TITLE II—CONVEYANCE AND ACQUISITION AUTHORITIES

SEC. 201. AUTHORITY TO SELL.—Except as otherwise provided by law, and subject to the requirements of action 3 of this Act, the Secretary is authorized to sell national resource lands. The national resource lands may be sold if the Secretary, in accordance with the guidelines he has established for sale of national resource lands and after preparation pursuant to section 103 of this Act of a land use plan which includes any tract of such lands identified for sale, determines that the sale of such tract will not cause needless degradation of the environment and meets the disposal criteria of section 202 of this Act.

SEC. 202. DISPOSAL CRITERIA.—(a) A tract of national resource lands may be transferred out of Federal ownership under this Act only where, as a result of land use planning required under section 103, the Secretary determines that—

(1) such tract of national resource lands, because of its location and other characteristics, is difficult to manage as part of the national resource lands and is not suitable for management by another Federal agency; or

(2) such tract of national resource lands was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract of national resource lands will serve objectives which can-

not be achieved prudently or feasibly on land other than such tract and which outweigh all public objectives and values which would be served by maintaining such tract in Federal ownership.

(b) Where the Secretary determines that land to be disposed of under clause (3) of subsection (a) is of agricultural value and is desert in character, such land shall be disposed of either under the sale authority of section 201 or in accordance with existing law.

SEC. 203. SALES AT FAIR MARKET VALUE.—Sales of national resource lands under this Act shall be at not less than the appraised fair market value as determined by the Secretary.

SEC. 204. SIZE OF TRACTS.—The Secretary shall determine and establish the size of tracts of national resource lands to be sold on the basis of the land use capabilities and development requirements of the lands; and, where any such tract is sold for agricultural use, its size shall be no larger than necessary to support a family-sized farm.

SEC. 205. COMPETITIVE BIDDING PROCEDURES.—Except as to sales under section 208 hereof, sales of national resource lands under this Act shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper (i) to assure equitable distribution among purchasers of national resource lands, or (ii) to recognize equitable considerations or public policies, including but not limited to a preference to users, he is authorized to sell national resource lands with modified competitive bidding or without competitive bidding.

SEC. 206. RIGHT TO REFUSE OR REJECT OFFER OF PURCHASE.—Until the Secretary has accepted an offer to purchase, he may refuse to accept any offer or may withdraw any land or interest in land from sale under this Act when he determines that consummation of the sale would not be consistent with this Act or other applicable law. The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bid at his invitation no later than thirty days after the submission of such offer.

SEC. 207. RESERVATION OF MINERAL INTERESTS.—All conveyances of title issued by the Secretary under this Act, except conveyances under the exchange authority provided in section 213, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe: *Provided*, That, where prospecting, mining, or removing minerals reserved to the United States would interfere with or preclude the appropriate use or development of such land, the Secretary may (1) enter into covenants which provide that such activities shall not be pursued for a specified period or (2) convey the minerals in the conveyance of title in accordance with the provisions of section 208(a)(1) and (2) and (c) of this Act.

SEC. 208. CONVEYANCE OF RESERVED MINERAL INTERESTS.—(a) The Secretary may convey mineral interests owned by the United States where the surface is in non-Federal ownership, regardless of which Federal agency may have administered the surface, if he finds (1) that there are no mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

(b) Conveyance of mineral interests pursuant to this section shall be made only to the record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed.

(c) The patent for any mineral interests conveyed pursuant to this section shall provide that, in the event that mineral development activities are initiated within twenty years of the issuance of such patent, the mineral interests of the owner or owners of the parcel of land on which such activities are initiated, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, shall revert to the United States.

(d) Before considering an application for conveyance of mineral interests pursuant to this section—

(1) the Secretary shall require the deposit of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance: *Provided*, That, if the administrative costs exceed the deposit, the applicant shall pay the outstanding amount; and, if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess; or

(2) the applicant shall have conducted, and submitted to the Secretary the results of, such an exploratory program, in accordance with standards promulgated by the Secretary.

(e) Moneys paid to the Secretary for administrative costs pursuant to subsection (d) of this section shall be paid to the agency which rendered the service and deposited to the appropriation then current.

SEC. 209. TERMS OF PATENT.—The Secretary shall insert in any patent or other document of conveyance he issues under this Act such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use and protection of the public interest.

SEC. 210. CONFORMING CONVEYANCES TO STATE AND LOCAL PLANNING.—The Secretary shall not make conveyances of national resources lands under this Act which would be in conflict with State and local land use plans, programs, zoning, and regulations. At least ninety days prior to offering for sale or otherwise conveying national resource lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located, in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning, the use of such lands prior to such conveyance.

SEC. 211. AUTHORITY TO ISSUE AND CORRECT DOCUMENTS OF CONVEYANCE.—Consistent with his authority to dispose of national resource lands, the Secretary is authorized to issue deeds, patents, and other indicia of title, and to correct such documents where necessary. In addition, the Secretary is authorized to make corrections on any documents of conveyance which have heretofore been issued on lands which would, at the time of their conveyance, have met the description of national resource lands.

SEC. 212. RECORDABLE DISCLAIMERS OF INTEREST IN LAND.—(a) After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of law; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau of Land Management or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) No document of disclaimer shall be issued pursuant to this title unless the applicant therefor has filed with the Secretary an application in writing and notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer and until the applicant therefor has paid to the Secretary the administrative costs of issuing the disclaimer as determined by the Secretary. All receipts shall be credited to the appropriation from which expended.

(c) Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as quitclaim deed from the United States.

SEC. 213. ACQUISITION OF LAND.—(a) The Secretary is authorized to acquire, by purchase, exchange, or donation, lands or interests therein where necessary for proper management of the national resource lands. *Provided*, That land or interests in land may be acquired pursuant to this title by eminent domain only if necessary in order to secure access to national resource lands: *Provided further*, That any such national resource lands acquired by eminent domain shall be confined to as narrow a corridor as is necessary to serve such purpose.

(b) Acquisitions pursuant to this Act shall be consistent with applicable land use plans prepared by the Secretary under section 103 of this Act.

(c) In exercising the exchange authority granted by subsection (a) of this section, the Secretary may accept title to any non-Federal land or interests therein and in exchange therefor he may convey to the grantor of such land or interests any national resource lands or interests therein which, under section 202 of this Act, he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land to be acquired. The values of the lands so exchanged either shall be equal, or if they are not equal, shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require.

(d) Lands acquired by exchange under this section or section 301(c) which are within the boundaries of the national forest system may be transferred to the Secretary of Agriculture for administration as part of, and in accordance with laws, rules, and regulations applicable to, the national forest system. Such transfer shall not result in the reduction in the percentage of in-lieu payments receivable by State and local governments. Lands acquired by exchange under this section or section 301(c) which are within the boundaries of national park, wildlife refuge, wild and scenic rivers, trails, or any other system established by Act of Congress may be transferred to the appropriate agency head for administration as part of, and in accordance with the laws, rules, and regulations applicable to, such system.

(e) Lands and interests in lands acquired pursuant to this section or section 301(c) shall, upon acceptance of title, become national resource lands, and, for the administration of public land laws not repealed by this Act, shall become public lands. If such acquired lands or interests in lands are located within the exterior boundaries of a grazing district established pursuant to section 1 of the Taylor Grazing Act (48 Stat. 1269), as amended, they shall become a part of that district.

TITLE III—MANAGEMENT IMPLEMENTING AUTHORITY

SEC. 301. STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS.—(a) The Secretary may

conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the national resource lands.

(b) The Secretary may enter into contracts or cooperative agreements involving the management, protection, development, acquisition, and conveying of the national resource lands.

(c) The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the national resource lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

SEC. 302. SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS.—(a) Notwithstanding any other provision of law, the Secretary may establish filing fees, service fees and charges, and commissions with respect to applications and other documents relating to national resource lands and may change and abolish such fees, charges, and commissions.

(b) The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for extraordinary costs with respect to applications and other documents relating to national resource lands. The moneys received for extraordinary costs under this subsection shall be deposited with the Treasury in a special account and are hereby appropriated and made available until expended. As used in this subsection, "extraordinary costs" include but are not limited to the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities.

(c) In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of the national resource lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

SEC. 303. WORKING CAPITAL FUND.—(a) There is hereby established a working capital fund for the management of national resource lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and regulations promulgated thereunder, supplies and equipment services in support of Bureau of Land Management programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Bureau of Land Management.

(b) The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) The fund shall be credited with payments from appropriations and funds of the Bureau of Land Management, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

(d) There is hereby authorized to be appropriated not to exceed $3,000,000 as initial capital of the working capital fund.

SEC. 304. DEPOSITS AND FORFEITURES.—(a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary, or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to national resource lands shall be credited to a separate account in the Treasury and are hereby appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on the national resource lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) The Secretary may require a user or users of roads, trails, lands, or facilities under the jurisdiction of the Bureau of Land Management to maintain such roads, trails, lands, or facilities in a satisfactory condition commensurate with the particular use requirements and the use made by each, the extent of such maintenance to be shared by the users in proportion to such use or, if such maintenance cannot be so provided, to deposit sufficient money to enable the Secretary to provide such maintenance. Such deposits shall be credited to a separate account in the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct, to cover the cost to the United States of the maintenance of any road, trail, lands, or facility under the jurisdiction of the Bureau of Land Management: *Provided*, That nothing in this subsection shall be construed to require the user or users to provide maintenance or deposits to repair any damages attributable to general public use rather than the specific use or uses of such user or users.

(c) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874), as amended, shall be expended for the benefit of such land only.

(d) If any portion of a deposit or amount forfeited under this Act is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the amount in excess shall be transferred to miscellaneous receipts.

SEC. 305. CONTRACTS FOR CADASTRAL SURVEY OPERATIONS AND RESOURCE PROTECTION.—(a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for airborne cadastral survey and resource potection opeations of the Bureau of Land Management. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

SEC. 306. UNAUTHORIZED USE.—The use, occupancy, or development of any portion of the national resource lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

SEC. 307. ENFORCEMENT AUTHORITY.—(a) Any violation of regulations which the Secretary issues with respect to the management, protection, development, acquisition, and conveying of the national resource lands and property located thereon and which the Secretary identifies as being subject to this section shall be punishable by a fine of not more than $1,000 or imprisonment for not more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from using the national resource lands in violation of laws or regulations relating to lands or resources managed by the Secretary.

(c) For the specific purpose of enforcing any law or regulation relating to lands or resources managed by the Secretary, the Secretary may designate any employee to (i) carry firearms; (ii) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; (iii) make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; (iv) search without warrant or process any person, place, or conveyance as provided by law; and (v) seize without warrant or process any evidentiary item as provided by law.

SEC. 308. COOPERATION WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—In connection with administration and regulation of the use and occupancy of the national resource lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of national resource lands.

SEC. 309. CALIFORNIA DESERT AREA.—(a) The Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, and educational resources that are unique and irreplaceable;

(2) the desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use;

(4) because of the proximity of the California desert to the rapidly growing population centers of southern California, these threats are certain to intensify;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the California desert; and

(6) to insure further study of the relationship of man and the desert environment and preserve the unique and irreplaceable resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional management authority must be provided to the Secretary to enable effective implementation of such planning and management.

(b) It is the purpose of this section to provide for the immediate and future protection and management of the California desert within the framework of a program of multiple use and the maintenance of environmental quality.

(c) (1) For the purpose of this section, the "California desert area" is the area generally depicted on a map entitled "California Desert Area—Proposed", dated April 1974, and on file in the Office of the Director of the Bureau of Land Management.

(2) As soon as practicable after this Act takes effect, the Secretary shall file a map and a legal description of the California desert area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

(d) The Secretary, in accordance with section 103, shall prepare and implement a comprehensive, long-range plan for the management, use, and protection of the national resources lands within the California desert area. Such plan shall be completed and implementation thereof initiated on or before June 30, 1979.

(e) During the period beginning on the date of enactment of this Act and ending on the effective date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage and protect the national resource lands, and their resources now in danger of destruction, in the California desert area, to provide for the public use of such lands in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

(f) (1) The Secretary, within sixty days of enactment of this Act, shall establish a California Desert Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of section 6 of this Act.

(2) It shall be the function of the advisory committee to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required under subsection (d) of this section.

(g) The Secretaries of Agriculture and Defense shall manage lands within their respective jurisdictions located in or adjacent to the California desert area, in accordance with the laws relating to such lands and wherever practicable in a manner consonant with the purpose of this section. The Secretaries of the Interior, Agriculture, and Defense are authorized and encouraged to consult among themselves and take cooperative actions to carry out this subsection.

(h) The Secretary shall report to the Congress no later than two years after the enactment of this Act, and annually thereafter in the report required in section 7 of this Act, on the progress in, and any problems concerning, the implementation of this section, together with any recommendations, which he may deem necessary, to remedy such problems.

(i) There is authorized to be appropriated for fiscal years 1976 through 1980 not to exceed $40,000,000 to effect the purpose of this section, such amount to remain available until expended.

SEC. 310. OIL SHALE REVENUES.—Section 35 of the Act of February 25, 1920 (41 Stat. 450), as amended (30 U.S.C. 191), is further amended by striking the period at the end of the proviso and inserting in lieu thereof the language as follows: ": *And provided further,* That all moneys paid to any State on or after January 1, 1974, from sales, bonuses, royalties, and rentals of public lands for the purpose of development of or research concerning oil shale deposits may be used by such State and its subdivisions for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services, as the legislature of the State may direct, giving priority to those subdivisions of the State socially or economically impacted by the development or research activities.

TITLE IV—AUTHORITY TO GRANT RIGHTS-OF-WAY

SEC. 401. AUTHORIZATION TO GRANT RIGHTS-OF-WAY.—(a) The Secretary is authorized to grant, issue, or renew rights-of-way over, upon, or through the national resource lands for—

(1) Reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment storage, transportation, or distribution of water;

(2) Pipelines and other systems for the transportation or distribution of liquids and gases, other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, or water and for storage and terminal facilities in connection therewith;

(3) Pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) Systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Power Commission under the Act of June 10, 1920, as amended (16 U.S.C. 796, 797);

(5) Systems for transmission or reception of radio, television, telegraph, and other electronic signals, and other means of communication;

(6) Roads, trails, highways, railroads, canals, tramways, airways, livestock driveways, or other means of transportation; and

(7) Such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, or through the national resource lands.

(b) (1) The Secretary shall require, prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose any or all plans, contracts, agreements, or other information or material reasonably related to the use, or intended use, of the right-of-way which he deems necessary to a determination, in accordance with the provisions of this title, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in such right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary, prior to granting a right-of-way pursuant to this title, shall require the applicant to disclose the identity of the participants in the entity. Such disclosure shall include, where applicable: (1) the name and address of each partner; (2) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(c) Nothing in this title shall be deemed to limit in any way the authority of the Secretary to make grants, issue leases, licenses, or permits, or enter into contracts under other provisions of law, for purposes ancillary or complementary to the construction, operation, maintenance, or termination of any facility authorized under this title.

SEC. 402. RIGHT-OF-WAY CORRIDORS.—(a) After the Secretary has submitted the report required by section 28(s) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576), he shall, consistent with applicable land use plans, designate transportation and utility corridors on national resource lands and, to the extent practical and appropriate, require that rights-of-way be confined to them. In designating such corridors and in determining whether to require that rights-of-way be confined to them, the Secretary shall take into consideration National and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

(b) In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way across national resource lands, the use of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this title.

SEC. 403. GENERAL PROVISIONS.—(a) The Secretary shall specify the boundaries of each right-of-way as precisely as is practicable. Each right-of-way shall be limited to the ground which the Secretary determines: (1) will be occupied by facilities which constitute the project for which the right-of-way is given, (2) to be necessary for the operation or maintenance of the project, and (3) to be necessary to protect the environment or public safety. The Secretary may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) The Secretary shall determine the duration of each right-of-way or other authorization to be granted, issued, or renewed pursuant to this title. In determining the duration the Secretary shall, among other things, take into consideration the cost of the facility and its useful life.

(c) Rights-of-way granted, issued, or renewed pursuant to this title shall be given under such regulations or stipulations, in accord with the provision of this title or any other law, and subject to such terms and conditions as the Secretary may prescribe regarding extent, duration, survey, location, construction, maintenance, and termination.

(d) The Secretary, prior to granting a right-of-way pursuant to this title for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation of such right-of-way which shall comply with stipulations or with regulations issued by the Secretary. The Secretary shall issue regulations or impose stipulations which shall include, but shall not be limited to: (1)

requirements to insure that activities on the right-of-way will not violate applicable air and water quality standards or applicable transmission, powerplant, and related facility siting standards established by or pursuant to law; (2) requirements designed to contol or prevent (A) damage to the environment (including damage to fish and wildlife habitat), (B) damage to public or private property, and (C) hazards to public health and safety; and (3) requirements to protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. Such regulations shall be regularly revised. Such regulations shall be applicable to every right-of-way granted pursuant to this title, and may be applicable to rights-of-way to be renewed pursuant to this title.

(e) Mineral and vegetative materials, in cluding timber, within or without a right-of-way may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws.

(f) No right-of-way shall be issued for less than the fair market value thereof as determined by the Secretary. The Secretary may, by regulation or prior to promulgation of such regulations, as a condition of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such right-of-way: *Provided, however,* That rights-of-way may be granted, issued, or renewed to State or local governments or agencies or instrumentalities thereof, or to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, for such lesser charge as the Secretary finds equitable and in the public interest.

(g) The Secretary shall promulgate regulations specifying the extent to which holders of rights-of-way under this title shall be liable to the United States for damage or injury incurred by the United States in connection with the rights-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims arising in connection with the rights-of-way.

(h) Where he deems it appropriate, the Secretary may require a holder of a right-of-way to furnish a bond, or other security, satisfactory to the Secretary to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary.

(i) The Secretary shall grant, issue, or renew a right-of-way under this title only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this title.

SEC. 404. TERMS AND CONDITIONS.—Each right-of-way shall contain such terms and conditions as the Secretary deems necessary to (1) carry out the purposes of this Act and rules and regulations hereunder; (2) protect the environment; (3) protect Federal property and monetary interests; (4) manage efficiently national resource lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the national resource lands adjacent to or traversed by said right-of-way; (5) protect lives and property; (6) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and (7) protect the public interest in the national resource lands.

SEC. 405. SUSPENSION OR TERMINATION OF RIGHT-OF-WAY.—Abandonment of the right-of-way or noncompliance with any provision of this title, condition of the right-of-way, or applicable rule or regulation of the Secretary may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and an appropriate administrative proceeding pursuant to title 5, United States Code, section 554, the Secretary determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary shall give written notice to the holder of the ground or grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this title, condition, rule, or regulation as the case may be. Deliberate failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period shall constitute a rebuttable presumption of abandonment of the right-of-way: *Provided, however,* That where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control the Secretary is not required to commence proceedings to suspend or terminate the right-of-way.

SEC. 406. RIGHTS-OF-WAY FOR FEDERAL AGENCIES.—(a) The Secretary may reserve for the use of any department or agency of the United States a right-of-way over, upon, or through national resource lands, subject to such terms and conditions as he may impose. The provisions of this title shall be applicable to any such right-of-way.

(b) Where a right-of-way has been provided for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of that other department or agency.

SEC. 407. CONVEYANCE OF LANDS.—If under applicable law the Secretary decides to transfer out of Federal ownership, by patent, deed, or otherwise, any national resource lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576), the lands may be conveyed subject to the right-of-way; however, if the Secretary determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this title will be carried out, the terms and conditions of the right-of-way complied with, or the national resource lands protected, he shall (1) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (2) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

SEC. 408. EXISTING RIGHTS-OF-WAY.—Nothing in this title shall have the effect of terminating any rights-of-way or rights-of-use heretofore issued, granted, or permitted by the Secretary. However, with the consent of the holder thereof, the Secretary may cancel such a right-of-way and in its stead issue a right-of-way pursuant to the provisions of this title.

SEC. 409. STATE STANDARDS.—The Secretary shall take into consideration and, to the extent practical, comply with State standards for right-of-way construction, operation, and maintenance if those standards are more stringent than Federal standards and if the national resource lands are adjacent to lands to which such State standards apply.

SEC. 410. EFFECT ON OTHER LAWS.—(a) After the date of enactment of this Act, no right-of-way for the purposes listed in this title shall be granted, issued, or renewed over, upon, or through national resource lands except under and subject to the provisions, limitations, and conditions of this title: *Provided,* That any application for a right-of-way filed under any other law prior to the date of enactment of this Act may, at the applicant's option, be considered as an application under this title or the Act under which the application was filed. The Secretary may require the applicant to submit any additional information he deems necessary to comply with the requirements of this title.

(b) Nothing in this title shall be construed to preclude the use of national resources lands for highway purposes pursuant to sections 107 and 317 of title 23, United States Code.

TITLE V—CONSTRUCTION OF LAW, PRESERVATION OF VALID EXISTING RIGHTS, AND REPEAL OF LAWS

SEC. 501. CONSTRUCTION OF LAW.—(a) Except as provided in section 410, the authority conferred upon the Secretary by this Act is in addition to all other authority vested in him by law, and nothing in this Act shall be deemed to repeal any such other authority by implication.

(b) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or—

(1) as affecting in any way any law governing appropriations or use of, or Federal fight to, water or national resource lands;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two or more States and the Federal Government;

(4) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto;

(5) as modifying the terms of any interstate compact;

(6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands;

(7) as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national resource lands; or

(8) as amending, limiting, or infringing the existing laws providing grants of land to the States.

SEC. 502. VALID EXISTING RIGHTS.—All actions by the Secretary under this Act shall be subject to valid existing rights.

SEC. 503. REPEAL OF LAWS RELATING TO DISPOSAL OF NATIONAL RESOURCE LANDS.—(a) The following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Homesteads:				
Revised Statute 2289				161, 171.
Mar. 3, 1891	561	5	26: 1097	161, 162.
Revised Statute 2290				162.
Revised Statute 2295				163.
Revised Statute 2291				164.
June 6, 1912	153		37: 123	164, 169, 218.
May 14, 1880	89		21: 141	166, 185, 202, 223.
June 6, 1900	821		31: 683	166, 223.
Aug. 9, 1912	280		37: 267	
Apr. 6, 1914	51		38: 312	167.
Mar. 1, 1921	90		41: 1193	
Oct. 17, 1914	325		38: 740	168.
Revised Statute 2297				169.
Mar. 3, 1881	153		21: 511	
Oct. 22, 1914	335		38: 766	170.
Revised Statute 2292				171.
June 8, 1880	136		21: 166	172.
Revised Statute 2301				173.
Mar. 3, 1891	561	6	26: 1098	
June 3, 1896	312	2	29: 197	
Revised Statute 2288				174.
Mar. 3, 1891	561	3	26: 1097	
Mar. 3, 1905	1424		33: 991	
Revised Statute 2296				175.
Apr. 28, 1922	155		42: 502	
May 17, 1900	479	1	31: 179	179.
Jan. 26, 1901	180		31: 740	180.
Sept. 5, 1914	294		38: 712	182.
Revised Statute 2300				183.
Aug. 31, 1918	166	8	40: 957	
Sept. 13, 1918	173		40: 960	
Revised Statute 2302				184, 201.
July 26, 1892	251		27: 270	185.
Feb. 14, 1920	76		41: 434	186.
Jan. 21, 1922	32		42: 358	
Dec. 28, 1922	19		42: 1067	
June 12, 1930	471		46: 580	
Feb. 25, 1925	326		43: 981	187.
June 21, 1934	690		48: 1185	187a.
May 22, 1902	821	2	32: 203	187b.
June 5, 1900	716		31: 270	188, 217.
Mar. 3, 1875	131	15	18: 420	189.
July 4, 1884	180	Only last paragraph of sec. 1.	23: 96	190.
Mar. 1, 1933	160	1	47: 1418	190a.
The following words only: "*Provided*, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under the Act of July 4, 1884 (23 Stat. 96: U.S.C. title 43, sec. 190)."				
Revised Statutes 2310, 2311				191.
June 13, 1902	1080		32: 384	203.
Mar. 3, 1879	191		20: 472	204.
July 1, 1879	60		21: 46	205.
May 6, 1886	88		24: 22	206.
Aug. 21, 1916	361		39: 518	207.
June 3, 1924	240		43: 357	208.
Revised Statute 2298				211.
Aug. 30, 1890	837		26: 391	212.
The following words only: "No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement, is validated by this act."				
Mar. 3, 1891	561	17	26: 1101	
The following words only: "and that the provision of 'An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes,' which reads as follows, viz: 'No person who shall after the passage of this act enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws,' shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws."				
Apr. 28, 1904	1776		33: 527	213.
Aug. 3, 1950	521		64: 398	
Mar. 2, 1889	381	6	25: 854	214.
Feb. 20, 1917	98		39: 925	215.
Mar. 4, 1921	162	1	41: 1433	216.
Feb. 19, 1909	160		35: 639	218.
June 13, 1912	166		37: 132	
Mar. 3, 1915	84		38: 953	
Mar. 3, 1915	91		38: 957	
Mar. 4, 1915	150	2	38: 1163	
July 3, 1916	220		39: 344	
Feb. 11, 1913	39		37: 666	218, 219.
June 17, 1910	298		36: 531	219.
Mar. 3, 1915	91		38: 957	
Sept. 5, 1916	440		39: 724	
Aug. 10, 1917	52	10	40: 275	
Mar. 4, 1915	150	1	38: 1162	220.
Mar. 4, 1923	245	1	42: 1445	222.
Apr. 28, 1904	1801		33: 547	224.
Mar. 2, 1907	2527		34: 1224	
May 29, 1908	220	7	35: 466	
Aug. 24, 1912	371		37: 499	
Aug. 22, 1914	270		38: 704	231.
Feb. 25, 1919	21		40: 1153	
July 3, 1916	214		39: 341	232.
Sept. 29, 1919	64		41: 288	233.
Apr. 6, 1922	122		42: 491	233, 272, 273.
Mar. 2, 1889	381	3	25: 854	234.
Dec. 29, 1894	14		28: 509	
July 1, 1879	63	1	21: 48	235.
Dec. 20, 1917	6		40 430	236.
July 24, 1919	26	Next to last paragraph only.	41: 271	237.
Mar. 2, 1932	69		47: 50	237a.
May 21, 1934	320		48: 787	237b.
May 22, 1935	135		49: 286	237c.
Aug. 19, 1935	560		49: 659	237d.
Mar. 31, 1938	57		52: 149	
Apr. 20, 1936	239		49: 1235	237e.
July 30, 1956	778	1, 2, 4	70: 715	237 f. g, h.
Mar. 1, 1921	102		41: 1202	238.
Apr. 7, 1922	125		42: 492	
Revised Statute 2308				239.
June 16, 1898	458		30: 473	240.
Aug. 29, 1916	420		39: 671	
Apr. 7, 1930	108		46: 144	243.
Mar. 3, 1933	198		47: 1424	243a.
Mar. 3, 1879	192		20: 472	251.
Mar. 2, 1889	381	7	25: 855	252.
June 3, 1878	152		20: 91	253.
Revised Statute 2294				254.
May 26, 1890	355		26: 121	
Mar. 11, 1902	182		32: 63	
Mar. 4, 1904	394		33: 59	
Feb. 23, 1923	105		42: 1281	
Revised Statute 2293				255.
Oct. 6, 1917	86		40: 391	
Mar. 4, 1913	149	Only last paragraph of section headed "Public Land Service."	37: 925	256.
May 13, 1932	178		47: 153	256a.
June 16, 1933	99		48: 274	
July 26, 1935	419		49: 504	
June 16, 1937	361		50: 303	
Aug. 27, 1935	770		49: 909	256b.
Sept. 30, 1890	J. Res. 59		26: 684	261.
June 16, 1880	244		21: 287	263.
Apr. 18, 1904	25		33: 589	
Revised Statute 2304				271.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Homesteads—Continued				
Mar. 1, 1901	674		31: 847	271, 272.
Revised Statute 2305				272.
Feb. 25, 1919	37		40: 1161	272a.
Dec. 28, 1922	19		42: 1067	
Revised Statute 2306				274.
Mar. 3, 1893	208		27: 593	275.
The following words only: "*And provided further:* That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate."				
Aug. 18, 1894	301	Only last paragraph of Section headed "Surveying the Public Lands."	28: 397	276.
Revised Statute 2309				277.
Revised Statute 2307				278.
Sept. 21, 1922	357		42: 990	
Sept. 27, 1944	421		58: 747	279–283.
June 25, 1946	474		60: 308	279.
May 31, 1947	88		61: 123	279, 280, 282.
June 18, 1954	306		68: 253	279, 282.
June 3, 1948	399		62: 305	283, 284.
Dec. 29, 1916	9	1–8	39: 862	291–298.
Feb. 28, 1931	328		46: 1454	291.
June 9, 1933	53		48: 119	291.
June 6, 1924	274		46: 469	292.
Oct. 25, 1918	195		40: 1016	293.
Sept. 29, 1919	63		41: 287	294, 295.
Mar. 4, 1923	245	2	42: 1445	302.
Aug. 21, 1916	361		39: 518	1075.
Aug. 28, 1937	876	3	50: 875	1181c.
2. Desert Land Entries:				
Mar. 3, 1877	107	2, 3	19: 377	322–323, 325, 327–329.
Mar. 3, 1891	561	2	26: 1096	
Except the words: "... all acts and parts of acts in conflict with this act are hereby repealed."				
Jan. 6, 1921	12		41: 1086	
Mar. 28, 1908	112		35: 52	324, 326, 333.
Feb. 27, 1917	134		39: 946	330.
Mar. 1, 1921	102		41: 1202	331.
Dec. 15, 1921	3		42: 348	
Aug. 7, 1917	48		40: 250	332.
Apr. 30, 1912	101		37: 106	334.
Feb. 25, 1925	329		43: 982	336.
July 30, 1956	778		70: 715	336a–d.
Mar. 4, 1915	147	5	38: 1161	335, 337, 338.
Mar. 21, 1918	26		40: 458	
Mar. 4, 1929	687		45: 1548	339.
Feb. 14, 1934	9		48: 349	
3. Sale and Disposal Laws:				
Mar. 3, 1891	561	9	26: 1099	671.
Revised Statute 2354				673.
Revised Statute 2355				674.
May 18, 1898	344	2	30: 418	675.
Revised Statute 2365				676.
Revised Statute 2357				678.
June 15, 1880	227	3, 4	21: 238	679, 680.
Mar. 2, 1889	381	4	25: 854	681.
Mar. 1, 1907	2286		34: 1052	682.
June 1, 1938	317		52: 609	682a–e.
July 14, 1945	298		59: 467	
June 8, 1954	270		68: 239	
Revised Statute 2361				688.
Revised Statute 2362				689.
Revised Statute 2363				690.
Revised Statute 2368				691.
Revised Statute 2366				692.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
3. Sale and Disposal Laws—Continued				
Revised Statute 2369				693.
Revised Statute 2370				694.
Revised Statute 2371				695.
Revised Statute 2374				696.
Revised Statute 2372				697.
Feb. 24, 1909	181		35: 645	
May 21, 1926	353	The two provisos only.	44: 591	
Revised Statute 2375				698.
Revised Statute 2376				699.
Mar. 2, 1889	381	1	25: 854	700.
4. Townsite Reservation and Sale:				
Revised Statute 2380				711.
Revised Statute 2381				712.
Revised Statute 2382				713.
Aug. 24, 1954	904		68: 792	
Revised Statute 2383				714.
Revised Statute 2384				715.
Revised Statute 2386				717.
Revised Statute 2387				718.
Revised Statute 2388				719.
Revised Statute 2389				720.
Revised Statute 2391				721.
Revised Statute 2392				722.
Revised Statute 2393				723.
Revised Statute 2394				724.
Mar. 3, 1877	113	1, 3, 4	19: 392	725–727.
Mar. 3, 1891	561	16	26: 1101	728.
July 9, 1914	138		38: 454	730.
Feb. 9, 1903	531		32: 820	731.
5. Drainage Under State Laws:				
May 20, 1908	181	1–7	35: 171	1021–1027.
May 1, 1958	P.L. 85-387		72: 99	1029–1034.
Jan. 17, 1920	47		41: 392	1041–1048.
6. Abandoned Military Reservation:				
July 5, 1884	214	5	23: 104	1074.
Aug. 21, 1916	361		39: 518	1075.
Mar. 3, 1893	208		27: 593	1076.
The following words only: "*Provided*, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place."				
Aug. 23, 1894	314		28: 491	1077, 1078.
Feb. 11, 1903	543		32: 822	1079.
Feb. 15, 1895	92		28: 664	1080, 1077.
Apr. 23, 1904	1496		33: 306	1081.
7. Public Lands; Oklahoma:				
May 2, 1890	182	Last paragraph of sec. 18 and secs. 20, 21, 22, 24, 27.	26:90	1091–1094, 1096, 1097.
Mar. 3, 1891	543	16	26: 1026	1098.
Aug. 7, 1946	772	1, 2	60: 872	1100–1101.
Aug. 3, 1955	498	1–8	69: 445	1102–1102g.
May 14, 1890	207		26: 109	1111–1117.
Sept. 1, 1893	J. Res. 4		28: 11	1118.
May 11, 1896	168	1, 2	29: 116	1119.
Jan. 18, 1897	62	1-3, 5, 7	29: 490	1131–1134.
June 23, 1897	8		30: 105	
Mar. 1, 1899	328		30: 966	
8. Sales of Isolated Tracts:				
Revised Statute 2455				1171.
Feb. 26, 1895	133		28: 687	
June 27, 1906	3554		34: 517	
Mar. 28, 1912	67		37: 77	
Mar. 9, 1928	164		45: 253	
June 28, 1934	865	14	48: 1274	
July 30, 1947	383		61: 630	
Apr. 24, 1928	428		45: 457	1171a.
May 23, 1930	313		46: 377	1171b.
Feb. 4, 1919	13		40: 1055	1172.
May 10, 1920	178		41: 595	1173.
Aug. 11, 1921	62		42: 159	1175.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
8. Sales of Isolated Tracts—Continued				
May 19, 1926	337		44: 566	1176.
Feb. 14, 1931	170		46: 1105	1177.
9. Alaska Special Laws:				
Mar. 3, 1891	561	11	26: 1099	732.
May 25, 1926	379		44: 629	733-736.
May 29, 1963	P.L. 88-34		77: 52	
July 24, 1947	305		61: 414	738.
May 14, 1898	299	1	30: 409	270.
Mar. 3, 1903	1002		32: 1028	
Apr. 29, 1950	137	1	64: 94	
Aug. 3, 1955	496		69: 444	270, 687a-2.
Apr. 29, 1950	137	2-5	64: 95	270, 270-5,
July 11, 1956	571	2	70: 529	270-6, 270-7, 687a-1.
July 8, 1916	228		39: 352	270-8, 270-9,
June 28, 1918	110		40: 632	270-10, 270-14.
July 11, 1956	571	1	70: 528	
Mar. 8, 1922	96	1	42: 415	270-11.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
9. Alaska Special Laws:—Continued				
Aug. 23, 1958	P.L. 85-725	1, 4	72: 730	
Aug. 17, 1961	P.L. 87-147		75: 384	270-13.
Oct. 3, 1962	P.L. 87-742		76: 740	
Apr. 13, 1926	121		44: 243	270-15,
Apr. 29, 1950	134	3	64: 93	270-16, 270-17.
May 14, 1898	299	10	30: 413	270-4, 687a to 687a-5.
Mar. 3, 1927	323		44: 1364	
May 26, 1934	357		48: 809	
Aug. 23, 1958	P.L. 85-725	3	72: 730	
Mar. 3, 1891	561	13	26: 1100	687a-6.
Aug. 30, 1949	521		63: 679	687b to 687b-4.
July 19, 1963	P.L. 88-66		77: 80	687b-5.
10. Pittman Underground Water Act:				
Sept. 22, 1922	400		42: 1012	356.

(b) Section 7 of the Taylor Grazing Act, 48 Stat. 1272, ch. 865, as amended by section 2 of the Act of June 26, 1936, 49 Stat. 1976, ch. 842, title I, 43 U.S.C. 315f, is further amended to read as follows:

"The Secretary of the Interior is authorized, in his discretion to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (numbered 6910), and amendments thereto, and Executive order of February 5, 1935 (numbered 6964), or within a grazing district, which are more valuable or suitable for any other use than for the use provided for under this Act, or proper for acquisition in satisfaction of any outstanding lieu, exchange or land grant, and to open such lands to disposal in accordance with such classification under applicable public land laws. Such lands shall not be subject to disposition until after the same have been classified and opened to disposal.".

(c) Section 2 of the Act of March 8, 1922, 42 Stat. 416, ch. 96, as amended by section 2 of the Act of August 23, 1958, 72 Stat. 730, Public Law 85-725, 43 U.S.C. 270-12, is further amended to read:

"The coal, oil, or gas deposits reserved to the United States in accordance with the Act of March 8, 1922 (42 Stat. 415, ch. 96, as added to by the Act of August 17, 1961, 75 Stat. 384, Public Law 87-147, and amended by the Act of October 3, 1962, 76 Stat. 740, Public Law 87-742), shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine or remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times to enter upon the lands patented under the Act of March 8, 1922, as amended, and in accordance with the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove oil and gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided*, That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: *Provided further*, That nothing in this Act shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase.".

(e) Section 3 of the Act of August 30, 1949, 63 Stat. 679, ch. 521, 43 U.S.C. 678b-2, is amended to read:

"Notwithstanding the provisions of any Act of Congress to the contrary, any person who prospects for, mines, or removes any minerals from any land disposed of under the Act of August 30, 1949 (63 Stat. 679, ch. 521), shall be liable for any damage that may be caused to the value of the land and tangible improvements thereon by such prospecting for, mining, or removal of minerals. Nothing in this section shall be construed to impair any vested right in existence on August 30, 1949.".

(f) Notwithstanding any other provision of this Act, all laws of the United States in effect on the date immediately preceding the effective date of this Act relating to homesteading in the United States shall, on and after such effective date, continue to be applicable to lands within the State of Alaska classified by the Secretary as suitable for homestead entry in the same manner and same extent as if this Act had not been enacted until June 30, 1984.

SEC. 504. REPEAL OF LAWS RELATING TO ADMINISTRATION OF NATIONAL RESOURCE LANDS.—The following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Mar. 2, 1895	174		28: 744	176.
2. June 28, 1934	865	8	48: 1272	315g.
June 26, 1936	842	3	49: 1976, title I.	
June 19, 1948	548	1	62: 533	
July 9, 1962	P.L. 87-524		76: 140	315g-1.
3. Aug. 24, 1937	744		50: 748	315p.
4. Mar. 3, 1909	271	2d proviso only.	35: 845	772.
June 25, 1910	J. Res. 40		36: 884	
5. June 21, 1934	689		48: 1185	871a.
6. Revised Statute	2447			1151.
Revised Statute	2448			1152.
7. June 6, 1874	223		18: 62	1153, 1154.
8. Jan. 28, 1879	30		20: 274	1155.
9. May 30, 1894	87		28: 84	1156.
10. Revised Statute	2450			1161.
Feb. 27, 1877	69	1	19: 244	
The following words only: "Section twenty-four hundred and fifty is amended by striking out in the fourth line the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
Revised Statute	2451			1162.
February 27, 1877	69	1	19: 244	
The following words only: "Section twenty-four hundred and fifty-one is amended by striking out, in the first and second lines, the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
Revised Statute	2456			1163.
Sept. 20. 1922	350		42: 857	
The words: ". . . and sections 2450, 2451, and 2456 be amended to read as follows:" and all words following in the Act.				
Revised Statute	2457			1164.
11. Mar. 3, 1891	561	7	26: 1098	1165.
12. Revised Statute	2471			1191.
Revised Statute	2472			1192.
Revised Statute	2473			1193.
13. July 14, 1960	P.L. 86-649	101-202(a), 203-204(a), 301-303.	74: 506	1361, 1362, 1363-1383.
14. Sept. 26, 1970	P.L. 91-429		84: 885	1362a.
15. July 31, 1939	401	1, 2	53: 1144	

SEC. 505. REPEAL OF LAWS RELATING TO RIGHTS-OF-WAY.—(a) The following statutes or parts of statutes are repealed insofar as they apply to national resource lands:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statutes 2339				661.
The following words only: "and the right-of-way for the construction of ditches and canals for the purpose herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage."				
Revised Statutes 2340				661.
The following words only: ", or rights to ditches and reservoirs used in connection with such water rights,".				
Feb. 26, 1897	335		29: 599	664.
Mar. 3, 1899	427	1	30: 1233	665, 958 (16 U.S.C. 525).
The following words only; "that in the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir site when in his judgment the public interests will not be injuriously affected thereby."				
Mar. 3, 1875	152		18: 482	934-939.
May 14, 1898	299	2-9	30: 409	942-1 to 942-9.
Feb. 27, 1901	614		31: 815	943.
June 26, 1906	3548		34: 481	944.
Mar. 3, 1891	561	18-21	26: 1101	946-949.
Mar. 4, 1917	184	1	39: 1197	
May 28, 1926	409		44: 668	
Mar. 1, 1921	93		41: 1194	950.
Jan. 13, 1897	11		29: 484	952-955.
Mar. 3, 1923	219		42: 1437	
Jan. 21, 1895	37		28: 635	951, 956, 957.
May 14, 1896	179		29: 120	
May 11, 1898	292		30: 404	
Mar. 4, 1917	184	2	39: 1197	
Feb. 15, 1901	372		31: 790	959 (16 U.S.C. 79, 522).
Mar. 4, 1911	238		36: 1253	961 (16 U.S.C. 5, 420, 523).
Only the last two paragraphs under the subheading "Improvement of the National Forests" under the heading "Forest Service".				
May 27, 1952	338		66: 95	
May 21, 1896	212		29: 127	962-965.
Apr. 12, 1910	155		36: 296	966-970.

(b) Notwithstanding the provisions of subsection (a) of this section, the following statute is repealed in its entirety:

Act of	Chapter	Section	Statute at Large	U.S. Code
Revised Statute 2477				43 U.S.C. 932.

Mr. JACKSON. Mr. President, I am pleased to join with the distinguished senior Senator from Colorado in introducing the National Resource Lands Management Act.

The Federal Government has long overlooked the national resources lands. This valuable resource comprises 20 percent of our entire land base and 60 percent of all Federal property. The neglect of this, our largest single block of federally owned lands must come to an immediate halt. Unfortunately, Mr. President, the Congress must share the blame for the lack of proper attention to these lands. Over the years we have legislated rather extensively concerning other Federal land systems, such as the national forests, parks, wildlife refuges, and wilderness systems; but, in my judgment, we have failed to provide adequate statutory protection for the greatest public land resource—the national resource lands.

The public lands of the United States have always provided the arena in which we Americans have struggled to fulfill our dreams. Even today dreams of wealth, adventure, and escape are still being acted out on these farflung lands. These lands and the dreams—fulfilled and unfulfilled—which they foster are a part of our national destiny. They belong to all Americans.

What we do with the public lands of the United States tells a great deal about what we are—what we care for—and what is to become of us as a nation.

Until recently, the lands under the jurisdiction of the Bureau of Land Management have been, for the most part, neglected lands. They were the leftovers from which we carved lands for homesteading, parks, forests, or other uses considered more important. They have not even been dignified with a name other than "public domain." Other Federal lands have been given titles which befit their importance—such as national parks, national forests, and national seashores. Therefore, the very first section of this bill would give these lands the name of "national resource lands." Hopefully, this symbolic gesture of respect will complement the numerous, necessary authorities which this legislation would provide for the management of these lands.

Until the 20th century and the establishment of the national park, forest, and other Federal land systems, nearly all the Federal lands were in the category of what this act designates as national resource lands. Although the establishment of the various Federal land systems presaged the end of the era of wholesale disposal of Federal lands, it was only with the Taylor Grazing Act of 1934 that the general policy of disposal of national resource lands was altered.

The Bureau of Land Management, the agency charged with the task of administering the national resource lands, is the successor agency to the General Land Office which was established by the act of April 25, 1812, as a bureau of the Treasury Department. The Office was transferred to the Department of the Interior when that Department was created in 1849. Passage of the Taylor Grazing Act led to the establishment of the Grazing Service to manage grazing districts authorized under the act. In 1946, the General Land Office and the Grazing Service were combined to form the Bureau of Land Management.

Although many areas within the national resource lands tend to be less desirable from a recreational or scenic point of view than the lands already selected for inclusion in the national systems, our country's expanding and more mobile population has placed increasing demands for public use on these lands. In addition, our Nation's economy requires the fuels, minerals, timber, and forage resources on and under the national resource lands. In order to meet these demands, the Bureau of Land Management has fully adopted the retention philosophy and is managing those lands so as to provide for a wide variety of uses.

However, the Bureau's efforts have been impeded by its dependence on a vast number of outmoded public land laws which were enacted in earlier periods in American history when disposal and largely uncontrolled development of the public domain were the dominant themes. The agencies which have jurisdiction over the other national systems possess modern statutory mandates which reflect changing philosophies toward management of the Federal lands. The Organic Act of the Forest Service, first passed in 1897, and amended thereafter, remains a "modern" mandate, particularly when supplemented by the Multiple Use Sustained Yield Act of 1960. The Park Service's Organic Act of 1916 has been renewed through amendments and through individual acts creating national parks. Our pride in these laws must necessarily be tempered by the recognition of our failure to provide a complementary statutory base for the Bureau of Land Management and its national resource lands.

The lack of a modern management mandate for the Bureau and its dependence on some 3,000 public land laws, many of which are clearly antiquated, were among the reasons for congressional recognition of a need to review and reassess the entire body of law governing Federal lands. This review was begun when, on September 19, 1964, Congress created the Public Land Law Review Commission.

After 5 years of extensive investigations, the Commission completed its review and submitted its final report, entitled "One-Third of the Nation's Land," to the President and the Congress on June 20, 1970. The report contains 137 numbered, and several hundred unnumbered, recommendations designed to improve the Federal Government's custodianship of the Federal lands. The legislation we introduce today is in accordance with over 100 of these recommendations.

Principal among these recommendations is the Commission's view that—

> The policy of large-scale disposal of public lands reflected by the majority of statutes in force today (should) be revised and that future disposal should be only those lands that will achieve maximum benefit for the general public in non-Federal ownership, while retaining in Federal ownership those values must be preserved so that they may be used and enjoyed by all Americans.

The legislation we introduce today specifically adopts this goal in stating as policy that the national interest will be best served by retaining the national resource lands in Federal ownership" and that management of these lands will be "under principles of multiple use and sustained yield in a manner which will—assure the environmental quality of such lands for present and future generations."

In addition, the Commission emphasized a need to develop "a clear set of goals for the management and use of public lands * * * particularly * * *—for —lands administered by the Bureau of Land Management." The Commission's report stated specifically that—

> A congressional statement of policy goals and objectives for the management and use of public lands is needed to give focus and direction to the planning process.

The bill also answers this call of the Commission by providing a clear statement of goals and objectives by which these lands must be managed.

The National Resource Lands Management Act also directs the Secretary of the Interior to prepare and maintain an inventory of the national resource lands and their resources. Congressional recognition of the importance of such authority for proper management of the national resource lands has been long standing, as demonstrated by the passage of the 1964 Classification and Multiple Use Act. That act contained temporary authority providing the Bureau of Land Management with criteria to conduct a systematic effort to classify lands. However, this authority expired on December 23, 1970, and unless we enact the legislation, the Bureau of Land Management will continue to lack the necessary authority to properly manage the national resource lands.

Perhaps the most criitcal finding of the Commission is the appalling absence of the enforcement authority so necessary for any land management agency. The National Resource Lands Management Act would provide the BLM with authority similar to that already possessed by the Park Service and the Forest Service.

Mr. President, we must act expeditiously on this measure. It has been 11 years since the creation of the Public Land Law Review Commission, 5 years since the submission of its report and the expiration of the Classification and Multiple-Use Act, and 5 years since I first introduced a National Resource Lands Management Act. This bill's predecessors have been reported three times by the Senate Interior Committee and passed twice by the Senate. It would not be in the public interest to delay further.

This bill is a fine example of a bipartisan effort. This bill is virtually identical to S. 424, my bill which was reported unanimously by the Interior Committee and was passed by a 71-to-1 vote in the Senate last year. It contains many of the provisions of S. 1041, the President's proposal of last Congress. In

fact, it enjoyed the full support of the administration.

Mr. President, I will do my best to insure continued bipartisan support for this measure and I pledge to this body that it will receive the prompt attention of the Interior Committee.

By Mr. STEVENS (for himself, Mr. DOMENICI, and Mr. MONTOYA):

S. 509. A bill to revise retirement benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service not entitled to Indian preference, provide greater opportunity for advancement and employment of Indians, and for other purposes. Referred to the Committee on Post Office and Civil Service.

Mr. STEVENS. Mr. President, the 1934 Wheeler-Howard Act, which reformed the administration of Indian Affairs from top to bottom, provided, among other things, not only for preferential hiring of Indian people into the Bureau of Indian Affairs, but also for preference for subsequent promotion within that organization. For reasons that are not entirely clear—possibly because at the time the act was passed, Indian people generally lacked the education and experience to move beyond the unskilled jobs for which they were initially hired—the Interior Department did not enforce the provisions of the legislation dealing with Indian promotion rights. With the passage of time, these important Indian rights faded into almost total disunity.

During the same period, many talented and highly motivated persons, not eligible for Indian preference, have been recruited into the Bureau of Indian Affairs and the Indian Health Service which was split off from BIA in 1954. These persons, not told differently, quite rightly assumed they would be able to develop their full career potential within each of these two principal organizations serving the needs of Indian people.

Times do, however, change. No longer are Indians satisfied with dead-end jobs such as bus drivers, road laborers, or kitchen help which for so long was the case. In their restlessness to locate better employment for themselves while at the same time gaining increasing control over their powerful agencies so long the virtual monopoly of non-Indians, Indian spokesmen have discovered Indian rights to promotional preference and claimed these as a clear Indian right under the law.

Opponents, dismayed by the implications of this section of the Wheeler-Howard Act, contested the matter in the courts where it constantly has been upheld in favor of the Indians ultimately by the Supreme Court in an 8-to-0 decision given on June 17, 1974.

Many non-Indians, who find that their BIA and IHS careers have reached a dead end, are able to take advantage of promotional opportunities outside BIA or IHS and continue their careers with a minimum of interruption. For others it is not so easy. Many BIA and IHS positions have no equivalents in other Federal agencies. This tends to be particularly true of those employees with the longest tenure occupying the higher grades who have developed unique specialties. Consider, for example, the instance of the person who has worked his way up the career ladder to where he has become the head of a large specialized boarding school serving Navajo Indians.

Or the IHS engineer who has been promoted to a higher than average engineering position by virtue of his talent in organizing Indian communities to develop their own domestic water supply. Neither example can be promoted to positions to which qualified Indians apply and neither can look forward to furthering their careers elsewhere except in the most exceptional or fortuitous circumstances. Each can remain in his or her current position, frustrated and possibly undisturbed, until eligible to retire.

In the meantime, ambitious, highly motivated and qualified Indian people must wait in frustration for non-Indians to vacate these sorts of key jobs. Not a happy situation for either group nor one which creates a harmonious atmosphere in which to carry forth the national objective of increasing Indian self-determination through greater Indian control over these two important agencies.

To resolve this conflict, I am introducing this piece of legislation. It will achieve equity for the non-Indian employee by allowing him to retire earlier than normally would be the case. It will release those jobs which qualified Indians are anxious to fill.

During House consideration of the Indian Self-Determination and Education Act in the last Congress, a similar measure was considered as an amendment to that bill. While the amendment was accepted by the subcommittee, the full committee deleted the amendment from the reported bill. The House report states that—

> The Committee did so not because of the lack of merit for remedial action in this area, but because it felt more information and deliberation on the problem were necessary.

The bill I am introducing in the 94th Congress contains several substantive changes from S. 4070. First, it would provide increased retirement benefits only to those non-Indians who had 10 years of Federal service as of the Supreme Court decision last June and who were not then eligible for retirement under current civil service regulations. This bill would also reduce the retirement benefits from 2½ to 2 percent after 20 years of service. Thus, there would be little incentive for non-Indians to remain in the Bureau or Indian Health Service after the 20-year period. I feel that this bill will assist those long-term Federal employees who now find their careers at a virtual standstill, because of the Indian preference decision. At the same time, it will further the cause of Indian self-determination by encouraging non-Indians to retire earlier thus freeing more middle- and higher-level positions for qualified Indian applicants.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD immediately following my remarks.

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

S. 509

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8336 of title 5, United States Code, is amended by redesignating subsection (h) as subsection (i) and inserting the following new subsection:

"(h) An employee is entitled to an annuity if he (1) is separated from the service after completing 20 years of service before December 31, 1985, (2) was employed in the Bureau of Indian Affairs or the Indian Health Service continuously from June 17, 1974, to the date of his separation, (3) is not otherwise entitled to full retirement benefits, and (4) is not an Indian entitled to a preference under section 12 of the Act of June 18, 1934 (48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions.".

SEC. 2. Section 8339 of title 5, United States Code, is amended—

(1) by inserting in subsection (f), immediately after "subsections (a)–(e)", the following: "and (o)";

(2) by inserting in subsection (i), immediately after "subsections (a)–(h)", the following: "and (o)";

(3) by inserting in subsections (j) and (k) (1), immediately after "subsections (a)–(i)" each time it appears, the following: "and (o)";

(4) by inserting in subsection (l) immediately after "subsections (a)–(k)", the following: "and (o)";

(5) by inserting in subsection (n), immediately after "subsections (a)–(e)", the following: "and (o)"; and

(6) by adding at the end thereof the following: "(o) The annuity of an employee retiring under section 8336(h) of this title is:

"(A) 2½ percent of his average pay multiplied by so much of his total service as does not exceed 20 years; plus

"(B) 2 percent of his average pay multiplied by so much of his total service as exceeds 20 years.".

SEC. 3 (a) Section 8341 of title 5, United States Code, is amended—

(1) by inserting in subsection (b)(1), immediately after "section 8339(a)–(i)", the following: "and (o)"; and

(2) by striking out of subsection (d) "section 8339 (a)–(f) and (i)" and inserting in lieu thereof the following: "section 8339 (a)–(f), (i), and (o)".

(b) Section 8344(a)(A) of such title is amended by striking out "and (i)" and inserting in lieu thereof "(i), and (o)".

SEC. 4. The amendments made by this Act only apply to employees separated from the service on and after June 17, 1974.

Mr. MONTOYA. Mr. President, Senator STEVENS has performed a real service to the non-Indian employees of the BIA and IHS through his introduction of S. 4070 last year, and I am pleased to join him and my friend and partner from New Mexico, Senator DOMENICI, in reintroducing the legislation this year. Hopefully the measure will clear both Houses early in the session.

The Mancari decision, which is the catalyst in reactivating the Indian-preference policy first enunciated by the Congress in the Wheeler-Howard Act of 1934, is entirely proper, I believe. Carrying out its provisions will give real meaning to the concept of Indian self-determination which has been observed more in rhetoric than in reality up to this point.

Surely, however, sympathetic consideration must be given to those non-Indian employees of the BIA and the IHS who entered their line of work in the expectation that they would be devoting their lives to assisting the Indian peoples. Through the years, they have rendered valuable service. Many times, especially in the case of the IHS, this service has been rendered in spite of serious obstacles such as inadequate funding, inadequate supplies, and long hours.

These employees rightfully have the thanks of the Congress and the Indian peoples. But I think they deserve more than to be thanked and shown the way to the door.

It is Government policy which proclaimed Indian-preference in Wheeler-Howard some 41 years ago. It is Government practice which invited non-Indians into Indian service since then. Now it is a Government decision which is forcing these employees out of work or freezing them out of promotions. I think it is, therefore, entirely appropriate that the bill we introduce be passed.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. WILLIAMS, Mr. ABOUREZK, Mr. BEALL, Mr. CRANSTON, Mr. HATHAWAY, Mr. RANDOLPH, and Mr. SCHWEIKER):

S. 510. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices. Referred to the Committee on Commerce.

MEDICAL DEVICE AMENDMENTS OF 1975

Mr. KENNEDY. Mr. President, I am pleased to introduce on behalf of myself and Senators JAVITS, WILLIAMS, RANDOLPH, CRANSTON, HATHAWAY, SCHWEIKER, BEALL, and ABOUREZK the Medical Device Amendments of 1975. The United States is generally recognized throughout the world as having the highest standards of safety and efficacy for prescription drugs. These standards have been made possible by Congress decision to grant the Food and Drug Administration the authority to require that all new drugs be proven safe and effective before they are allowed onto the marketplace. Because of these standards there have been no tragic thalidomide catastrophes in this country. It is a record of safety which the American people deserve and can be proud of.

Unfortunately, the American people remain at risk today from medical device products that have been allowed on the market without demonstrating comparable standards of safety and effectiveness. Congress shares a heavy responsibility for this. We have not given the Food and Drug Administration the necessary authority to require that medical devices be proven safe and effective before they reach the American consumer. Our failure to enact this legislation can be measured in terms of severe illness, injuries, and even the deaths of victims of hazardous devices.

Last year, after extensive hearings by the Health Subcommittee, legislation was developed and passed the Senate without dissent. Unfortunately, it died in the House of Representatives.

Just 2 days ago the Health Subcommittee held a hearing illustrating the continuing tragic consequences resulting from the absence of medical device legislation. The hearing focused on the Dalkon shield, an IUD which was used by 2 million American women and hundreds of thousands of women overseas before the very significant health hazards of the device became known. All witnesses before the committee testified that many of the deaths and much of the illness attributed to this device could have been prevented if medical device legislation had been in effect when the Dalkon shield was developed.

The purpose of this legislation is to protect the health and safety of the American people. It involves the regulation of lifesaving medical equipment such as heart valves, heart pacemakers, heart-lung machines, respirators, IUD's and comparable equipment. It is understandable that in 1938, when the Food and Drug Act was first passed that no regulatory authority was given for medical devices because at that time the device industry was small and did not play a central role in American medicine. In 1975 the absence of device legislation is not understandable and it is not defensible.

Back in 1969 the Secretary of Health, Education, and Welfare formed a task force to study the need for medical device legislation. It reported that in the period between 1961 and 1971 alone there were 27,000 untoward effects from medical devices in this country. These included over 731 deaths—512 from heart valves, 89 from pacemakers, and 10 from IUD's. These numbers have grown since that time. The Dalkon shield alone is responsible for 13 deaths.

Mr. President, the administration, the device industry, consumers—all are on record supporting medical device legislation. The measure I am introducing today with my colleagues is identical to the measure which passed the Senate last February 1. I regret very much that action could not be completed by the House of Representatives last year. It is urgent that we in the Senate reenact this medical device legislation as soon as possible. It has broad bipartisan support. It has no opposition. The country desperately needs it. I know the Senate will act on it promptly.

I ask that the text of the legislation be printed in the RECORD and that pertinent extracts from the committee report issued last January 29, 1974, be printed in the RECORD.

Mr. JAVITS. Mr. President, I am joining today in introducing with Senator KENNEDY the Medical Devices Amendments of 1975. This bill is identical to the bill (S. 2368), passed by the Senate last year—unfortunately the House was unable to complete its deliberations—and in great measure incorporates the provisions of the Medical Devices Safety Act (S. 1446), which I introduced almost 2 years ago. The measure has the support of the administration, industry representatives, and consumer groups. The bill is cosponsored by Senators WILLIAMS, SCHWEIKER, BEALL, RANDOLPH, CRANSTON, HATHAWAY, and ABOUREZK.

The bill seeks to provide critically important new protection for consumers with respect to the quality of medical devices. These medical devices range from artificial organs, cardiac pacemakers, intrauterine devices, and oxygen-delivery equipment to tongue depressors and hospital heating pads. In many instances a medical device replaces a human organ or is implanted within the human body, or is life-sustaining, and it is essential that we assure the American people of their safety and efficacy.

Safe medical devices, like safe drugs, are a part of that elusive, quality system of health care which we have long sought to provide. Like drugs, medical devices can interact with the body in physical and chemical ways over long periods of time. Some medical devices emit radiation and energy. I believe it is essential that we require appropriate premarket testing of these devices and provide the very highest quality standards to insure that the public is adequately protected and that patients and health professionals alike can have greater confidence in the device's performance.

In the 93d Congress, the Subcommittee of Health of the Committee on Labor and Public Welfare, of which I am ranking minority member, heard the testimony of 20 expert witnesses—the administration, industry, consumers, and interested organizations—and all agreed upon the need for immediate congressional action. We must respond to the problem of, for example, artificial heart valves, which have had to be recalled due to the possibility of breakage and where the device's failure was life-threatening; or where orthopedic devices have rusted; or where pacemakers have been found to speed up and slow down in random fashion—all to the detriment of the patient's health. New medical devices cannot be permitted to continue to arrive at the marketplace without adequate scientific review, and the need for this legislation becomes urgent as our new advanced technology brings new devices into the health marketplace. Modern scientific instrumentation must insure also that untested scientific and medical devices are not foisted upon the public.

The exciting innovations in medical technology of recent years are inspiring and are an important contribution in improving the health of Americans. But I believe that it is now time also for the miracles of scientific technology to be rapidly translated into improved, quality health care for all Americans.

This bill provides for both the establishment of standards and for premarket testing and scientific review. Without these provisions, the consumer must continue to purchase medical devices at his peril.

This bill does not inflict arbitrary or inflexible standards upon the industry, standards which might lag behind rapid, scientific advances. Rather, it authorizes either standard setting or premarket testing—or neither, or both—depending upon the hazards of the device and the

degree to which its safety remains unknown. The key is premarket review, which requires that all life-supporting devices, all those which are to be implanted within the human body, and all others which present unusual or ill-defined risks, be tested and scientifically evaluated before they are introduced into commerce.

Mr. President, this is no time to wait. Just 2 days ago, the Health Subcommittee heard testimony which cast doubt and suspicion upon the safety of the Dalkon shield, an intrauterine device worn by millions of American women and by women throughout the world. It appears to have special dangers, including the risk of septic abortion and infection. We must now question whether the Dalkon shield is safe for human use—but our investigation comes too late. We must test these products before we market them, and we must pass along our information about safety, reliability, and efficacy to physicians and patients. It is only by regulating the quality of medical devices, and by informing the public of our findings, that we protect the right of patients and health professionals to make personal decisions regarding their purchase and use.

Mr. President, this bill is an effort to protect the interest, welfare, and safety of the American people through an efficient regulatory process. There has been no additional authority since 1938 to improve public protection against unsafe or unreliable medical devices. I strongly urge my colleagues to support this bill.

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

S. 510

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

SHORT TITLE; REFERENCES TO ACT

SECTION 1. (a) This Act may be cited as the "Medical Device Amendments of 1975."

(b) Unless otherwise specified, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the section or other provision amended or repealed is a section of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

TITLE I—PRELIMINARY CLASSIFICATION OF MEDICAL DEVICES

SEC. 101. Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by adding the following:

"PRELIMINARY CLASSIFICATION OF DEVICES

"SEC. 511. (a) Within sixty days after funds are first appropriated for the implementation of this section, the Secretary shall appoint and organize separate classification panels of experts, qualified by scientific training and experience, to review and classify devices intended for human use into appropriate categories based on the safety and effectiveness of such devices. Each panel shall review all devices intended for human use within its respective scientific field for purposes of appropriate classification and shall submit within one year of its appointment a report of its findings and conclusions to the Secretary. To the maximum extent practical the panel or panels shall provide an opportunity for any interested person to submit data and views on the classification of a device (or type or class of device). The Secretary may utilize any such panels which may have been formed for the purpose of such classification prior to enactment of this section and such panels may utilize information and findings developed prior to enactment of this section in making such reports. Such panels shall also serve as scientific review panels under section 514.

"(b)(1) Panel members shall be qualified by training and experience to evaluate the safety and effectiveness of devices in the category or class of devices to be referred to such a panel and to the extent feasible shall possess skill in the use of or experience in the development, manufacture, perfection, or utilization of such devices. In addition to such experts, each panel shall include as nonvoting members a representative of consumer interests and a representative of industry interests. Panel members may be nominated by appropriate scientific, trade, and consumer organizations.

(2) The panels shall be organized according to the various fields of clinical medicine and the fundamental sciences which utilize medical devices, and shall consist of members with diversified expertise in such fields as clinical and administrative medicine, engineering, biological and physical sciences, or other related professions. The Secretary shall designate one of the members of each panel to serve as chairman thereof. Panel members shall, while attending meetings or conferences of the panel or otherwise engaged on its business, be compensated at per diem rates fixed by the Secretary but not in excess of the rate for grade GS–18 of the General Schedule at the time of such service, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by title 5, United States Code, section 5703, for persons in the Government service employed intermittently. The Secretary shall furnish each panel with adequate clerical and other necessary assistance, and shall prescribe by regulation the procedures to be followed by each panel.

"(c) Panels appointed pursuant to subsection (a) shall submit (in the final report of the panel or such interim reports as may be appropriate) recommendations for the classification of devices for purposes of and in accordance with sections 513 and 514 into one of the three following classes and shall, to the extent practicable, assign priorities within such classes:

"(1) Those devices (A) for which insufficient information exists to—

"(i) assure effectiveness, or

"(ii) assure that exposure to such devices will not cause unreasonable risk of illness or injury, and

"(B) for which standards or other means may not be appropriate to reduce or eliminate such risk of illness or injury and which therefore should be subject to premarket scientific review pursuant to section 514. Such review, either initial or continuing, shall be required if the panels determine that such device purports or is represented to be for a use which is life sustaining or life supporting.

"(2) Those devices for which in order to assure effectiveness or to reduce or eliminate unreasonable risk of illness or injury it is appropriate to establish reasonable performance standards pursuant to section 513 relating to safety and effectiveness and for which other means may not be appropriate to reduce or eliminate such risk of illness or injury.

"(3) Those devices which are safe and effective when used in conjunction with instructions for usage and warnings of limitation, which are adequate for the persons by whom the device is represented or intended for use, which present a minimum risk, and which should be exempt from requirements for scientific review or performance standards.

"(d) As soon as possible after filing of the report required for compliance with subsection (a), the Secretary shall publish such report in the Federal Register and provide interested persons an opportunity to comment thereon. After reviewing such comments the Secretary shall by regulation provide for preliminary classification of such devices. The Secretary may establish priorities for implementing the action warranted by such classification under sections 513 and 514 and may defer such action for any device until an appropriate time, consistent with expeditious implementation of these provisions.

"(e) The Secretary, with the advice of the appropriate panel and after making a specific finding and publishing such finding in the Federal Register and providing interested persons an opportunity for comment thereon may by regulation change the preliminary classification of a device or group of devices from one category to another.

"(f) The preliminary classification of a device shall constitute public notice that, as expeditiously as is feasible, the Secretary will issue a final classification in the form of a determination of a need for a performance standard pursuant to section 513 or a determination of the need for scientific review pursuant to section 514. The preliminary classification shall not relieve the Secretary of any obligation to provide notice as required by sections 513 and 514. Any interested person will have an opportunity, pending such final classification, to undertake studies and other work appropriate to develop a performance standard or to demonstrate the safety and effectiveness of a device.

"(g) After the promulgation of regulations under subsection (d) of this section and commensurate with the effective date of section 501(f), a manufacturer of a medical device which has not been classified in accordance with this section shall file an application for the classification of the device and must receive from the Secretary notification of the classification of such device. The Secretary shall act on the application within sixty days unless the Secretary and the manufacturer agree to an additional period of time. The Secretary shall classify the devices in accordance with the criteria and procedures listed in sections 511, 513, and 514 including the requirement for consultation with the appropriate panel or panels. The appeal provisions of sections 513 and 514 shall apply."

TITLE II—AUTHORITY TO ESTABLISH PERFORMANCE STANDARDS

SEC. 201. Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C., ch. 9, subch. VI) is amended by adding at the end thereof the following new section:

"PERFORMANCE STANDARDS FOR MEDICAL DEVICES

"Authority To Set Standards

"SEC. 513. (a)(1) Whenever in the judgment of the Secretary such action is appropriate to assure effectiveness or to reduce or eliminate unreasonable risk of illness or injury associated with exposure to or use of a device (including the need for uniformity and compatibility with systems or environments in which it is intended to be used) and for which other means may not be appropriate to reduce or eliminate such risk of illness or injury he shall by order issued in accordance with subsection (c) of this section promulgate for any device, or type or class of device, for which a performance standard has been determined to be appropriate pursuant to section 511(d), a performance standard relating to safety and effectiveness (including effectiveness over time), and including where necessary: the composition, the construction, the compatibility with power systems and connections, and the properties, and including where appropriate the uniform identification of such device. Such performance standard shall where appropriate include provisions for the testing of the device and the measurement of its

characteristics (including individual lot testing by or at the direction of the Secretary where necessary to assure the accuracy and reliability of results when it is determined that no other more practicable means to assure accuracy and reliability are available to the Secretary) and shall where appropriate require the use and prescribe the form and content of instructions or warnings necessary for the proper installation, maintenance, operation, and use of the device.

"(2) A performance standard may require that the device or any component thereof be marked, tagged, or accompanied by clear and adequate warnings or instructions reasonably necessary for the protection of health or safety.

"(3) The Secretary shall provide for a periodic evaluation of the adequacy of all performance standards promulgated under this section in order to reflect changes in the state of the art of the development of devices and in applicable medical, scientific, and other technological data.

"(4) For the purposes of this section, when a device is intended for use by a physician, surgeon, or other person licensed or otherwise specially qualified therefor, its safety and effectiveness shall be determined with regard to such intended use

"Consultation With Other Federal Agencies and Interested Groups; Use of Other Federal Agencies

"(b)(1) Prior to (A) initiating a proceeding under subsection (c) to promulgate a performance standard under this section, (B) initiating the development of a proposed perfomance standard under subsection (f) of this section, or (C) the taking of any action under subsection (g) of this section, the Secretary shall to the maximum practicable extent consult with, and give appropriate weight to relevant standards published by, other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting agencies or organizations. In considering proposals for the development of performance standards, the Secretary shall to the maximum extent practicable invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, and consumer organizations which in his judgment can make a significant contribution to such development.

"(2) In carrying out his duties under this section, the Secretary shall utilize to the maximum practicable extent the personnel, facilities, and other technical support available in other Federal agencies.

"Initiation of Proceeding for Performance Standards—Development by Interested Parties

"(c)(1) A proceeding to promulgate a performance standard under this section shall be initiated by the Secretary by publication of notice in the Federal Register. Such notice shall advise of the opportunity for comment on the need to initiate such proceeding and shall include—

"(A) a description or other designation of the device (or type or class of device) to which the proceeding relates;

"(B) the nature of the risk or risks intended to be controlled;

"(C) a summary of the data on which the Secretary has found a need for initiation of the proceeding;

"(D) identification of any existing performance standard (if known to the Secretary) which may be relevant to the proceeding; and

"(E) an invitation to any person, including any Federal agency, which has developed or is willing to develop a proposed performance standard to submit to the Secretary, within sixty days after the date of such notice (i) such a performance standard; or (ii) an offer to develop a proposed performance standard in accordance with procedures prescribed by regulations of the Secretary. Such invitation shall specify a period of time, during which the performance standard is to be developed, which shall be a period ending one hundred and eighty days after the publication of the notice, unless the Secretary for good cause finds (and includes such finding in a notice published in the Federal Register) that a different period is appropriate.

"(2) Prior to his issuance of an order to promulgate a performance standard, the Secretary shall consider—

"(A) the degree of risk of illness or injury associated with those aspects of the devices subject to the order;

"(B) the approximate number of devices, or types or classes thereof subject to the order;

"(C) the benefit to the public from the devices subject to the order, and the probable effect of the order upon the utility, cost, or availability of the devices to meet that need;

"(D) means of achieving the objective of the order with a minimal disruption or dislocation of competition and of reasonable manufacturing and other commercial practices consistent with the public health and safety; and

"(E) data and comments submitted pursuant to subsection (c) relevant to such order.

"(3) Before taking action pursuant to subsections (d), (e), and (f) concerning the use of an existing performance standard or the designation of a person or governmental body to formulate a proposed performance standard, or simultaneous with such action, the Secretary shall publish a notice in the Federal Register containing his findings pursuant to paragraph (2) on the need to establish a standard. Such findings shall be made only after consideration of the report, comments, and regulation provided for in section 511(d) and the comments received under the notice described in subsection (a)(1), and may be appealed to the courts pursuant to subsection (g)(5) within thirty days after publication in the Federal Register.

"Use of Existing Performance Standards

"(d) If the Secretary (1) finds that there exists a standard which has been published by any Federal agency or other qualified agency, organization, or institution, (2) has made reference to such standard (unless it is a standard submitted under subsection (c)(1)(E)) in his notice pursuant to subsection (c)(1)(D), and (3) determines that such performance standard may be substantially acceptable to him as a device standard, then he may, in lieu of accepting an offer under this section, publish such performance standard as a proposed device performance standard in accordance with subsection (g).

"Acceptance of Offers To Develop Performance Standards

"(e)(1) Except as otherwise provided by subsection (d), the Secretary may accept one or more offers to develop a proposed performance standard pursuant to the invitation prescribed by subsection (c)(1)(E) if he determines that (A) the offeror is technically competent to undertake and complete the development of an appropriate performance standard within the period specified in the invitation under subsection (c)(1)(E) and (B) the offeror has the capacity to comply with procedures prescribed by regulations of the Secretary under paragraph (4) of this subsection. Where more than one offer is received and the Secretary determines that the requirements of subparagraphs (A) and (B) have been met, the Secretary shall, wherever practicable, give priority to offerors who have no proprietary interest in the device for which the standard is to be developed. The Secretary shall require, by regulation, that in making an offer, each offeror and appropriate individual directors, officers, consultants, and employees of each offeror company, disclose the following information:

"(i) all current industrial or commercial affiliations;

"(ii) sources of research support other than the offeror;

"(iii) companies in which offerors have financial interests;

"(iv) such additional information as the Secretary deems pertinent to reveal potential conflicts of interest with regard to the offer.

The information received by the Secretary from an offeror whose offer has been accepted shall be made public by the Secretary at the time that an offer is accepted.

"(2) The Secretary shall publish in the Federal Register the name and address of each person whose offer is accepted, and summary of the terms of such offer as accepted.

"(3) When an offer is accepted under this subsection the Secretary may agree to contribute to the offeror's cost in developing a proposed performance standard, if the Secretary determines that such contribution is likely to result in a more satisfactory performance standard than would be developed without such contribution, and that the offeror is financially responsible. Regulations of the Secretary, shall set forth the items of cost in which he may participate, except that such items may not include construction (except minor remodeling), or the acquisition of land or buildings.

"(4) The Secretary shall prescribe regulations governing the development of proposed performance standards under this subsection and subsection (f). Such regulations shall include requirements—

"(A) that performance standards recommended for promulgation be supported by test data or such other documents or materials as the Secretary may reasonably require to be developed, and be suitable for promulgation under subsection (g);

"(B) that performance standards recommended for promulgation contain such test methods as may be appropriate for measurement of compliance with such performance standards;

"(C) for notice and opportunity by interested persons, including representatives of consumers or consumer organizations, to participate in the development of such performance standards;

"(D) for the maintenance of such records as the Secretary prescribes in such regulations to disclose the course of the development of performance standards recommended for promulgation, the comments and other information submitted by any person in connection with such development, including comments and information with respect to the need for such recommended performance standards, and such other matters as may be relevant to the evaluation of such recommended performance standards; and

"(E) that the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records, relevant to the expenditure of any contribution of the Secretary, under paragraph (3).

"Develpment of Performance Standards by the Secretary

"(f) If the Secretary has published a notice as provided by subsection (c), and—

"(1) no person accepts the invitation prescribed by subsection (c)(1)(E);

"(2) the Secretary has accepted neither an existing performance standard pursuant to subsection (d) nor an offer to develop a proposed performance standard pursuant to subsection (e); or

"(3) the Secretary has accepted an offer pursuant to subsection (e) but determines that the offeror is unwilling or unable to continue the development of the performance standard which was the subject of the

offer or the performance standard which has been developed is not satisfactory;

then the Secretary shall proceed to develop a proposed performance standard pursuant to procedures prescribed by subsection (g).

"Procedure for Promulgation, Amendment, or Revocation of Performance Standards

"(g)(1)(A) Within one year after expiration of the period provided for persons to submit a proposed performance standard or offer to develop a proposed performance standard (which time may be extended by the Secretary by a notice published in the Federal Register stating the good cause therefor) and after review of any proposal submitted under subsection (e), the Secretary shall publish in the Federal Register either a proposal to promulgate a performance standard applicable to the device (or type or class of device) subject to the proceeding, or a notice that the proceeding is terminated. The proposal to promulgate a performance standard shall set forth the performance standard, the manner in which interested persons may examine data and other information on which the performance standard is based, and the period within which interested persons may present their comments on the standard (including the need therefor) orally or in writing. Such period for comment shall be at least sixty days, but not to exceed ninety days which time may be extended by the Secretary by a notice published in the Federal Register stating the cause therefor.

"(B) Within ninety days after the expiration of the period for comments pursuant to paragraph (A), the Secretary shall, by order published in the Federal Register, act upon the proposed performance standard or terminate the proceeding. The order shall set forth the performance standard, if any, the reasons for the Secretary's action, and the date or dates upon which the performance standard, or portions thereof, will become effective. Such date or dates shall be established so as to minimize, consistent with the public health and safety, economic loss to, and disruption or dislocation of, domestic and international trade. If any performance standard set forth in the order is substantially different from that set forth in the proposal an additional period of thirty days shall be permitted for comment on such performance standard.

"(C) The Secretary may include in the order promulgating a performance standard such findings in addition to those made pursuant to subsection (c)(3) as he may determine to be necessary to support the judgment required by subsection (a)(1).

"(2) The Secretary may revoke any performance standard, in whole or in part, upon the ground that there no longer exists a need therefor or that such performance standard (or part thereof) is no longer in the public interest. Such revocation shall be published as a proposal in the Federal Register and shall set forth such performance standard or portion thereof to be revoked, a summary of the reasons for his determination that there may no longer be a need therefor or that such standard (or any part thereof) may no longer be in the public interest, the manner in which interested persons may examine data and other information relevant to the Secretary's determination, and the period within which any interested person may present his views, orally or in writing, with respect to such revocation. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall publish such order in the Federal Register. The order shall include the reasons for the Secretary's action and the date or dates upon which such revocation shall become effective.

"(3) The Secretary may propose an amendment of a performance standard on his own initiative or on the petition of any interested person by publishing such proposal in the Federal Register. Such proposal shall be subject to paragraphs (4) and (5) of this subsection and subsection (h).

"(4) To the extent not inconsistent with this section, the provisions of section 553 of title 5 of the United States Code, shall govern proceedings under this section to promulgate, amend, or revoke a performance standard.

"(5)(A) In a case of actual controversy as to the validity of any order promulgating, amending, or revoking a performance standard or findings that a standard is needed or a regulation banning a device, any person who will be adversely affected by such order if placed in effect may at any time prior to the thirtieth day after such order is issued file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28, United States Code.

"(B) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary the court may order such additional evidence (and evidence in rebuttal thereof) to be presented to the Secretary. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence, so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

"(C) Upon the filing of the petition referred to in subparagraph (A) of this paragraph, the court shall have jurisdiction to affirm the order, or to set it aside in whole or in part, temporarily or permanently. If the order of the Secretary refuses to issue, amend, or repeal a regulation and such order is not in accordance with law the court shall by its judgment order the Secretary to take action with respect to such regulation, in accordance with law. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(D) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended.

"(E) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

"(F) A certified copy of the transcript of the record of the proceedings before the Secretary shall be furnished by the Secretary to any interested party at his request, and payment of the costs thereof, and shall be admissible in any criminal libel for condemnation, exclusion of imports, or other proceeding arising under or in respect of this Act, notwithstanding proceedings with respect to the order have been previously instituted or become final under this subsection.

"(6) The Secretary may by regulations prohibit a manufacturer of a device from stockpiling any device to which a performance standard applies, so as to prevent such manufacturer from circumventing the purpose of such performance standard. For purposes of this paragraph, the term 'stockpiling' means manufacturing or importing a device between the date of promulgation of such performance standard and its effective date at a rate which is significantly greater (as determined under the regulations under this paragraph) than the rate at which such device was produced or imported during a base period (prescribed in the regulations under this paragraph) ending before the date of promulgation of the performance standard.

"Referral to Independent Advisory Committee

"(h)(1) The Secretary may refer a proposal under subsection (g) to an advisory committee of experts for a report and recommendation with respect to any matter involved in such proposal which requires the exercise of scientific judgment. Such referral shall be prior to or after publication under such subsection, and shall be so referred upon a request, within the time for comment specified in the proposal, of any interested person (unless the Secretary finds the request to be without good cause). For the purpose of any such referral, the Secretary shall appoint an advisory committee (which may be a standing advisory scientific review panel established under section 514(b)) and shall refer to it, together with all the data before him, the matter so involved for study, and for a report and recommendation. The advisory committee shall, after independent study of the data furnished to it by the Secretary and other data before it, certify to the Secretary a report and recommendations, together with all underlying data and a statement of the reasons or basis for the recommendations. A copy of such report shall be promptly supplied by the Secretary to any person who has filed a petition, or who has requested such referral to the advisory committee. After giving consideration to all data then before him, including such report, recommendations, underlying data, and statement, and to any prior order issued by him in connection with such matter, the Secretary shall by order conform or modify any prior order, or, if no such prior order has been issued, shall by order act upon the proposal. Any interested person shall have the right to consult with such advisory committee, and such advisory committee is authorized to consult with any person, in connection with the matter referred to it.

"(2) The Secretary shall appoint as members of any such advisory committee persons qualified in the subject matter to be referred to the committee and of appropriately diversified professional background. Members of an advisory committee who are not in the regular full-time employ of the United States, while attending conferences or meetings of their committee or othewise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary but not at rates exceeding the daily equivalent for grade GS-18 of the General Schedule for each day so engaged, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently. The Secretary shall furnish the committee with clerical and other assistance, and shall by regulation prescribe the procedures to be followed by the committee.

"Testing or Manufacture of Devices To Assure Compliance With Standards

"(i)(1) Every manufacturer of a device subject to a standard under this section shall assure the Secretary, at such times and in such form and manner as the Secretary shall by regulation prescribe, that testing methods prescribed by the performance standard show the device to comply therewith, or that the device has been manufactured under a program of quality control which is in accord with current good manu-

facturing practice (as may be determined by regulations of the Secretary) designed to assure such compliance.

"(2) To assure that devices conform to performance standards under this section, the Secretary shall review and evaluate on a continuing basis testing and other quality control programs carried out by manufacturers of devices subject to such performance standards.

"Exemption

"(j) This section shall not apply to any device (1) intended solely (A) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man or (B) to affect the structure or any function of the body of such animals; or (2) subject to section 514 except for those characteristics of the device made subject to provisions of existing performance standards by an application approved pursuant to that section; or (3) any device of a particular manufacturer which the Secretary finds pursuant to regulations issued after an opportunity for a hearing may notwithstanding any standard promulgated under this section be marketed pursuant to an approval under section 514.

"Temporary Permits

"(k) The Secretary shall issue regulations permitting the interstate shipment of devices varying from an applicable performance standard for the purpose of investigation or other testing prior to amendment of the standard. Such regulations may include reasonable conditions related to the safety and effectiveness of the devices.

"Custom Devices

"(l) This section shall not apply to any custom device to the extent that it is ordered by a physician (or other specially qualified persons, authorized by regulations promulgated by the Secretary, after an opportunity for a hearing) to be made in a special way for individual patients. Any such device shall comply with all aspects of any applicable performance standard except those specifically ordered by a physician or such other authorized person to be changed. This subsection shall only to devices ordered for individual patients, and shall not otherwise exempt a device from subsection (k). Custom devices shall not be used as a course of conduct and shall not be generally available in finished form for purchase or for dispensing upon prescription, and whether in finished form or otherwise, shall not be made available through commercial channels by the maker or processor thereof.

"Banned Device

"(m)(1) Whenever the Secretary finds after consultation with the appropriate panel or panels established under section 514(b) and after affording all interested persons an opportunity for an informal hearing, that—

"(A) a device presents an unreasonable risk of illness or injury or deception; and

"(B) no feasible performance standard or approved application under section 514 would adequately protect the public from the unreasonable risk of illness or injury or deception associated with such device,

he may propose and, in accordance with subsection (g), promulgate a regulation declaring such product a banned device.

"(2) The Secretary may declare a proposed regulation banning a device to be effective on an interim basis after publication in the Federal Register, pending completion of the procedures established in subsection (g)(3), if he determines, after affording all interested persons an opportunity for an informal hearing, that such banning will expeditiously reduce or eliminate a hazard to the public health or safety, fraud, or gross deception associated with such device.

"Expedited Amendment

"(n) The Secretary may declare a proposed amendment of a performance standard to be effective on an interim basis after publication in the Federal Register, pending completion of the procedures established in subsection (g)(3), if he determines, after affording all interested persons an opportunity for an informal hearing, that such amendment will permit rapid implementation of desirable changes or will expeditiously reduce or eliminate a hazard to the public health or safety without prohibiting devices permitted by the existing performance standard and that to do so is in the public interest."

CONFORMING AMENDMENTS

SEC. 202. (a) Section 501 of such Act (21 U.S.C. 351) is amended by adding at the end thereof the following new paragraph:

"(e)(1) If it is, or purports to be or is represented as, a device with respect to which, or with respect to any component, part, or accessory of which there has been promulgated a performance standard under section 513, unless such device, or such component, part, or accessory, is in all respects in conformity with such performance standard; or

"(2) if it is a banned device."

(b) Section 502 of such Act (21 U.S.C. 352) is amended by adding at the end thereof the following new paragraph:

"(q) If it is a device subject to a performance standard promulgated under section 513, unless (1) its labeling bears such instructions and warnings as may be prescribed in such performance standard; and (2) it complies with the requirements of section 513(i)(1)."

TITLE III—SCIENTIFIC REVIEW OF CERTAIN MEDICAL DEVICES

SEC. 301. (a) Section 501 of such Act, as amended by section 202(a) of this Act, is further amended by adding at the end thereof the following new paragraph:

"(f) If (1) it is a device, and (2) such device, or any component, part, or accessory thereof, is deemed unsafe or ineffective within the meaning of section 514 with respect to its use or intended use."

(b) Chapter V of such Act, as amended by this Act, is further amended by adding at the end thereof the following new section:

"SCIENTIFIC REVIEW OF CERTAIN MEDICAL DEVICES

"When Scientific Review Is Required

"SEC. 514. (a)(1) The Secretary may declare that a device (or type or class of device) for which scientific review has been determined to be appropriate pursuant to section 511(d) shall be subject to scientific review under this section with respect to any particular use or intended use thereof if, after consultation with the appropriate panel or panels specified in subsection (b), he finds that (A) such review is appropriate to assure effectiveness or is appropriate to reduce or eliminate unreasonable risk of illness or injury associated with exposure to or use of a device and (B) other means available to the Secretary may not be appropriate to reduce or eliminate such risk of illness or injury. (2) The Secretary may declare that a device (or type or class of device) shall be subject to scientific review under this section with respect to any particular use or intended use thereof if he (A) determines that scientific review for any device is appropriate to protect the public health and safety and (B) finds that other means available to the Secretary may not be appropriate to reduce or eliminate such risk of illness or injury. To the maximum extent practicable the panel or panels shall provide an opportunity for any interested person to submit data and views on the appropriateness of applying scientific review to a device (or type or class of device) or any particular use of a device. The declaration shall be by regulation (which may be rescinded by the Secretary) which shall set forth and be based upon the report, comments, and regulations provided for in section 511(d), the findings prescribed in this subsection, and findings as described in section 513(c)(2). The promulgation of such regulation may be appealed to the courts pursuant to the provisions of section 513(g)(5) within thirty days after publication in the Federal Register. A device (or type or class of device) declared to be subject to scientific review shall be deemed unsafe or ineffective for the purpose of the application of section 501(f) unless either—

"(i) there is in effect an approval of an application with respect to such device under this section,

"(ii) such device is exempted by or pursuant to subsections (k), (l), or (m) of this section, or

"(iii) such device is intended solely (I) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man or (II) to affect the structure or any function of the body of such animals.

"Standing Advisory Scientific Review Panels

"(b) For the purpose of reviewing applications filed under subsection (c), and of reviewing plans and protocols submitted under subsection (k)(4), and of reviewing product development protocol under subsection (m)(2) the Secretary shall utilize the standing advisory panels established under section 511. The selection, payment, and administration of these panels shall be governed by section 511.

"Application for Scientific Review

"(c)(1) Scientific review of a device (or type or class of device) which has been declared subject to such review in accordance with subsection (a) may be obtained by submitting to the Secretary an application for his determination of the safety and effectiveness of the device. The application shall contain (A) full reports of all information, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show whether or not such device is safe and effective for use; (B) a full statement of the composition, properties, and construction, and of the principle or principles of operation, of such device; (C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of such device; (D) an identifying reference to any performance standard, applicable to such device, or component of such device, which is in effect pursuant to section 513, and either adequate information to show that such device fully meets such performance standard or adequate information to justify any deviation from such standard; (E) such samples of such device and of the articles used as components thereof as the Secretary may require; (F) specimens of the labeling proposed to be used for such device; and (G) such other information, relevant to the subject matter of the application, as the Secretary, upon advice of the appropriate panel or panels established pursuant to subsection (b), may require.

"(2) Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary shall refer such application to the appropriate panel or panels (established pursuant to subsection (b)) for study and for submission (within such period, if any, as he may establish) of a report and recommendations, together with all underlying data and the reasons or basis for the recommendations. The provisions of section

706(d)(2) shall apply with respect to the material so submitted.

"Consideration of an Initial Action on Application

"(d) As promptly as possible, but in no event later than one hundred and twenty days after the receipts of an application under subsection (c), unless an additional period is agreed upon by the Secretary and the applicant, the Secretary, after considering the report and recommendations referred to in paragraph (2) of such subsection, shall—

"(1) approve the application if he finds that none of the grounds for denying approval specified in subsection (e) applies,

"(2) advise the applicant that the application is not in approvable form; and inform the applicant, insofar as the Secretary determines to be practicable, of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols, prescribed by the Secretary); or

"(3) deny approval of the application if he finds (and sets forth the basis of such findings as part of or accompanying such denial) that one or more grounds for denial specified in subsection (e) applies.

"Bases for Approval or Disapproval; Opportunity for Review

"(e)(1) If, upon the basis of the information submitted to the Secretary as part of the application and any other information before him with respect to such device the Secretary finds, after opportunity to the applicant for the review prescribed by paragraph (4), that—

"(A) such device is not shown to be safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof;

"(B) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing and installation of such device do not conform to the requirements of section 501(g);

"(C) there is a lack of adequate scientific evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof;

"(D) based on a fair evaluation of all material facts, such labeling is false or misleading in any particular; or

"(E) such device is not shown to conform in all applicable respects to a currently effective performance standard promulgated under section 513;

he shall issue an order denying approval of the applications and stating the findings upon which the order is based. In determining if a device is shown to be safe for purposes of this paragraph, the Secretary shall weigh any benefit to the public health probably resulting from the use of the device against any hazard to the public health probably resulting from such use.

"(2) As used in this subsection and subsection (f), the term 'adequate scientific evidence' means evidence consisting of sufficient well-controlled investigations, including clinical investigations where appropriate, by experts qualified by scientific training and experience to evaluate the effectiveness of the device involved, on the basis of which it could fairly and responsibly be concluded by such experts that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof, unless the Secretary determines that other valid scientific evidence is sufficient to establish the effectives of the device.

"(3) For the purposes of this section, when a device is intended for use by a physician, surgeon, or other person licensed or otherwise specially qualified therefor, its safety and effectiveness shall be determined in the light of such intended use.

"(4)(A) An applicant whose application has been denied approval may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such denial, obtain review thereof in accordance with subsection (i). The Secretary shall consider and give appropriate weight to the report and recommendations received from the advisory committee conducting such review under such subsection.

"(B) In lieu of the review provided by subparagraph (A), such applicant may petition to obtain a hearing in accordance with section 554 of title 5 of the United States Code.

"Withdrawal of Approval

"(f)(1) The Secretary may, upon obtaining where appropriate, advice on scientific matters from a panel or panels established pursuant to subsection (b), and after due notice and opportunity for hearing to the applicant, issue an order withdrawing approval of an application with respect to a device under this section if the Secretary finds—

"(A)(i) that clinical or other experience, tests, or other scientific data show that such device is unsafe for use under the conditions of use for which the application was approved; or (ii) on the basis of evidence of clinical experience, not included in or accompanying such application and not available to the Secretary until after the application was approved, or of tests by new methods or by methods not reasonably applicable when the application was approved, evaluated together with the evidence available to the Secretary when the application was approved, that such device is not shown to be safe for use under the conditions of use on the basis of which the application was approved;

"(B) on the basis of new information before him with respect to such device, evaluated together with the evidence available to him when the application was approved, that there is a lack of adequate scientific evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof;

"(C) that the application filed pursuant to subsection (c) contains or was accompanied by an untrue statement of a material fact;

"(D) that the applicant has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation or order under subsection (a) of section 516, or that the applicant has refused to permit access to, or copying or verification of such records as required by paragraph (2) of such subsection;

"(E) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such device do not conform to the requirements of section 501(g) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary; or

"(F) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the labeling of such device, based on a fair evaluation of all material facts is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary; or

"(G) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that such device is not shown to conform in all respects to an applicable performance standard promulgated pursuant to section 513.

"(2) If the Secretary (or in his absence the officer acting as Secretary) finds that an imminent health or safety hazard is involved, he may by order suspend the approval of such application immediately and give the applicant prompt notice of his action and afford the applicant an opportunity for an expedited hearing under this subsection. Such authority to suspend the approval of an application may not be delegated.

"(3) Any order under this subsection shall state the findings upon which it is based.

"Authority To Revoke Adverse Orders

"(g) Whenever the Secretary finds that the facts so require, he shall revoke an order under subsection (e) or (f) denying, withdrawing, or suspending approval of an application and shall approve such application or reinstate such approval, as may be appropriate.

"Service of Secretary's Orders

"(h) Orders of the Secretary under this section shall be served (1) in person by an officer or employee of the Department designated by the Secretary or (2) by mailing the order by registered mail or certified mail addressed to the applicant at his last known address in the records of the Secretary.

"Referral to Independent Advisory Committee

"(i)(1) A person who has filed an application under subsection (c) may petition the Secretary, in accordance with subparagraph (A) of subsection (e)(4), to refer such application, or the Secretary's action thereon, to an advisory committee of experts for a report and recommendations with respect to any question therein involved which requires the exercise of scientific judgment. Upon such petition, or if the Secretary on his own initiative deems such a referral necessary, the Secretary shall appoint an advisory committee and shall refer to it, together with all the data before him, the question so involved for study thereof and a report and recommendations thereon. The committee shall, after independent study of the data furnished to it by the Secretary and other data before it, certify to the Secretary a report and recommendations, together with all underlying data and a statement of the reasons or basis for the recommendations. A copy of the foregoing shall be promptly supplied by the Secretary to any person who has filed a petition, or who has requested such referral to the advisory committee. After giving consideration to all data then before him, including such report, recommendations, underlying data, and statement, and to any prior order issued by him in connection with such matter, the Secretary shall by order conform or modify any prior order or, if no such prior order has been issued, shall by order act upon the application. The applicant, as well as representatives of the Secretary, shall have the right to consult with such advisory committee, and such advisory committee is authorized to consult with any person in connection with the question referred to it.

"(2) Section 513(h)(2) shall apply to the appointment, compensation, staffing, and procedure of any such advisory committee.

"Judicial Review

"(j) The application may, by appeal taken in accordance with section 505(h), obtain judicial review of a final order of the Secretary denying or withdrawing approval of an application filed under subsection (c) of this section or a final order under subsection (m) revoking an exemption in effect under that subsection. Judicial review of such final order shall not be denied upon the ground that the petitioner has failed to avail himself of the review or hearing provided by subsection (e)(4) or the hearing provided by subsection (m).

"Exemption for Investigational Use

"(k)(1) It is the purpose of this subsection to encourage, to the maximum extent consistent with the protection of the public health and safety and with professional ethics, the discovery and development of useful devices and to that end to maintain optimum freedom for individual scientific investigators in their pursuit of that objective. All information required under this section to be submitted to the Secretary or to an institutional review committee shall be concise and no more burdensome than is necessary to permit adequate review.

"(2) Subject to the succeeding paragraphs of this subsection, there shall be exempt from the requirement of approval of an application under the foregoing provisions of this section any device which is intended solely for investigational use (in an appropriate scientific environment) by an expert or experts qualified by scientific training and experience to investigate the safety and effectiveness of such device.

"(3) The Secretary shall promulgate regulations after an opportunity for a hearing, relating to the application of the exemption referred to in paragraph (2) to any device which is intended for use in the clinical testing thereof upon humans, in developing data required to support an application under subsection (c).

"(4) Such regulations may provide for conditioning the exemption, in the case of a device intended for such clinical use, upon—

"(A) the submission, by the manufacturer of the device or the sponsor of the investigation, of an outline of the plan of initial clinical testing—

"(i) to a local institutional review committee which has been established to supervise clinical testing in the facility where the initial clinical testing is to be conducted, the composition and procedures of which comply with regulations of the Secretary, for review as being adequate to justify the commencement of such testing, or

"(ii) if no such committee exists or if the Secretary finds that the process of review by such committee is inadequate or that protection of health and safety so requires (whether or not the plan has been approved by such committee), to the Secretary for review by the appropriate panel or panels established pursuant to subsection (b) as being adequate to justify the commencement of such testing;

"(B) prompt notification to the Secretary by such manufacturer or sponsor (under such circumstances and in such manner as the Secretary prescribes) of approval of any plan pursuant to clause (A)(i);

"(C) the submission, by the manufacturer of the device or the sponsor of the investigation, of an adequate protocol for clinical testing to be conducted by separate groups of investigators under essentially the same protocol, together with a report of prior investigations of the device (including, where appropriate, tests on animals) adequate to justify the proposed testing, either (i) to a local institutional review committee for review in accordance with the provisions of clauses (A)(i) and (B), or (ii) to the Secretary for review in accordance with the provisions of clause (A)(ii) if such testing involves facilities in which no such committee exists, or facilities served by more than one local institutional review committee if such committees are unable to agree on the adequacy of the submission;

"(D) the obtaining, by the manufacturer, of the device or the sponsor of the investigation, if the device is to be distributed to investigators for testing, of a signed agreement from each of such investigators that humans upon whom the device is to be used will be under such investigator's personal supervision or under the supervision of investigators responsible to him;

"(E) the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer of the device or the sponsor of the investigation, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of the device, as the Secretary finds will enable him to evaluate the safety and effectiveness of the device in the event of the filing of an application pursuant to subsection (c); and

"(F) such other conditions relating to the protection of the public health and safety as the Secretary may determine to be necessary.

Nothing in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of devices. The Secretary shall within thirty days of the receipt of a notification or submission pursuant to this paragraph, determine whether the proposed investigation conforms to the requirements of this section. An investigation shall not begin until the sponsor receives notice from the Secretary that the proposed investigation conforms with the requirements of this section. The Secretary may not delay the beginning of an investigation pursuant to this paragraph unless he finds that the investigation does not conform to the requirements of this section and he has notified the sponsor of such findings. The Secretary may exempt investigations from part or all the requirements of this subsection when he determines that to do so is in the public interest.

"(5) Such regulations shall assure that the rights and welfare of the subjects involved are adequately protected, that the risks to an individual are outweighed by the potential benefits to him or by the importance of the knowledge to be gained and that informed consent is to be attained by methods that are adequate. Such informed consent shall be obtained in all but exceptional cases.

"(A) For the purposes of this section only, the term 'informed consent' shall mean the consent of a person, or his legal representative, so situated as to be able to exercise free power of choice without the intervention of any element of force, fraud, deceit, duress, or other form of constraint or coercion. Such consent shall be evidenced by an agreement signed by such person, or his legal representative. The information to be given to the subject in such written agreement shall include the following basic elements:

"(1) a fair explanation of the procedures to be followed, including an identification of any which are experimental;

"(2) a description of any attendant discomforts and risks reasonably to be expected;

"(3) a fair explanation of the likely results should the experimental procedure fail;

"(4) a description of any benefits reasonably to be expected;

"(5) a disclosure of any appropriate alternative procedures that might be advantageous for the subject;

"(6) an offer to answer any inquiries concerning the procedures; and

"(7) an instruction that the subject is free to either decline entrance into a project or to withdraw his consent and to discontinue participation in the project or activity at any time without prejudicing his future care.

In addition, the agreement entered into by such person or his legal representative, shall include no exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights, or to release the institution or its agents from liability for negligence. Any organization which initiates, directs, or engages in programs of research, development, or demonstration which require informed consent shall keep a permanent record of such consent and the information provided the subject and develop appropriate documentation and reporting procedures as an essential administrative function.

"(B) The term 'exceptional cases' as used in paragraph (5) shall be strictly construed; shall permit the waiver only of those elements of consent listed in subparagraph (A) as may be justified by the circumstances of each case; and shall require the written concurrence in the acting physician's decision by at least two other licensed physicians not involved in the research project, unless in a life threatening situation, it is not feasible to obtain such concurrence.

"(6) Whenever the Secretary determines that a device is being or has been shipped or delivered for shipment in interstate commerce for investigational testing upon humans, and that such device is subject to the preceding subsections of this section and fails to meet the conditions for exemption therefrom for investigational use, he shall notify the sponsor of his determination and the reasons therefor, and the exemption will not thereafter apply with respect to such investigational use until such failure is corrected.

"(7) In determining whether this subsection is applicable to any device and, if so, whether there has been compliance with the conditions of exemption, or upon application for reconsideration of any such determination, the Secretary shall, if so requested by the sponsor of the investigation, or may on his own initiative, obtain the advice of an appropriate expert or experts who are not otherwise, except as consultants, engaged in the carrying out of this Act.

"Custom Devices

"(1) This section shall not apply to any custom device to the extent that it is ordered by a physician (or other specially qualified persons authorized by regulations promulgated by the Secretary after an opportunity for a hearing) to be made in a special way for individual patients. Any such device shall comply with all aspects of any applicable performance standard except those specifically ordered by a physician or such other authorized person to be changed. This subsection shall apply only to devices ordered for individual patients, and shall not otherwise exempt a device from subsection (k). Custom devices shall not be used as a course of conduct and shall not be generally available in finished form for purchase or for dispensing upon prescription, and, whether in finished form or otherwise, shall not be made available through commercial channels by the maker or processor thereof.

"Product Development Protocol

"(m)(1) Any device (or type or class of device), manufactured or distributed by a particular person, which has been made subject to this section by a regulation promulgated by the Secretary, may be exempted by the Secretary from the requirement of approval of an application under the foregoing provisions of this section if—

"(A) the nature of the device (or type or class of device) is such that it is likely that it will be subject to frequent modification or rapid obsolesence or will not be produced in substantial volume; and

"(B) it is intended solely for use by or under the direction or supervision of a practitioner licensed by law to use or to prescribe the use thereof; and

"(C) it is, or will be, investigated in accordance with an approved product development protocol established pursuant to paragraph (2) of this subsection, or it is subject to an effective notice of completion of the requirements of such protocol.

"(2) Any person may submit a petition to the Secretary to establish a product devel-

opment protocol with respect to a particular device (or type or class of device) meeting the requirements set forth in subparagraphs (A) and (B) of paragraph (1) of this subsection. Such petition shall include supporting data and a proposed protocol. The Secretary shall, within thirty days, refer any such petition to the appropriate panel of experts appointed pursuant to subsection (b) of this section. Such panel may, within sixty days, or such other time as may be agreed upon by the panel and the petitioner, approve with or without modification the proposal protocol. The protocol, if approved, shall provide—

"(A) the investigational and testing procedures required prior to the commencement of clinical trials of such device and subsequent significant modifications thereto;

"(B) a requirement that an institutional review committee similar to that described in clause (i) of subparagraph (A) of paragraph (4) of subsection (k) of this section shall make a written finding that the predicted risk-to-benefit ratio applicable to the use of the device justifies clinical trials and that one or more such committees will continually monitor and make periodic written records on all clinical trials conducted in connection with the institution in which such committee operates;

"(C) the type and quantity of clinical trials and findings therefrom required prior to the filing of a notice of completion of a product development protocol;

"(D) a requirement for complete records of the investigation to be maintained which are adequate to show compliance with the product development protocol;

"(E) a requirement that consent, as described in paragraph (5) of subsection (k) of this section, be obtained from all subjects of the investigation; and

"(F) a requirement that copies of all records which are to be maintained pursuant to this paragraph he made available to the Secretary upon request.

"(3) If the panel to which such petition has been referred does not approve the proposed protocol within sixty days (or within such other time as may be agreed upon), the Secretary may consider and approve with or without modification the proposed protocol within sixty days after the date he is notified that the panel has concluded not to approve a protocol. If neither the panel nor the Secretary approves a proposed protocol, the Secretary shall issue a final order denying the petition and stating the grounds therefor.

"(4) At any time after a product development protocol for a particular device (or type or class of device) has been approved pursuant to this section, the petitioner may submit a notice of completion stating that the requirements of the protocol have been fulfilled and that, to the best of his knowledge, there is no reason bearing on safety, effectiveness, or other public health considerations why the device should not be marketed. Such notice shall contain all the data and information from which the petitioner made this determination. The Secretary shall approve or disapprove the notice of completion within ninety days after receipt of such notice.

"(5) The Secretary may, after providing the petitioner an opportunity for an informal hearing, at any time prior to approving a notice of completion, issue a final order to revoke a product development protocol or disapprove a notice of completion if he finds that—

"(A) the petitioner has failed substantially to comply with the requirements of the protocol; or

"(B) the results of the clinical trials conducted differ so substantially from the results required in the protocol that further trials cannot be justified; or

"(C) such device is not shown to be safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

"(D) there is a lack of adequate scientific evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

A final order issued under this paragraph shall be in writing and shall contain the reasons to support the conclusions thereof.

"(6) The Secretary (or in his absence the officer acting as Secretary) may at any time, by an order in writing stating the findings on which it is based, immediately revoke an exemption from the requirement of approval of an application under the foregoing provisions of this section, if he finds that there is an imminent hazard to the public health or safety caused by the existence of the exemption. In taking such action the Secretary shall give prompt notice to the person following the protocol or having filed the notice of completion, and afford such person an opportunity for an expedited hearing under this paragraph.

"(7) At any time after a notice of completion has been approved, the Secretary may issue an order revoking an exemption of the device (or type or class of device) from the requirement of approval of an application under the foregoing provisions of this section if he finds that any of the grounds listed in subparagraphs (A) through (F) of paragraph (1) of subsection (f) of this section apply. The provisions of paragraphs (1) and (3) of subsection (f) and subsections (g) through (j) of this section shall apply.

"(8) Whenever the Secretary finds that the facts so justify, he may reconsider an order under this subsection revoking the exemption granted by this subsection and reinstate the exemption.

"Transitional Provisions

"(n)(1) If, on the day immediately prior to the date upon which a device is declared to be subject to scientific review under this section, the device was in use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man, or for the purpose of affecting the structure or any function of the body of man, section 501(f) shall become effective with respect to such preexisting use or uses of such device on the closing date (as defined in paragraph (2) of this subsection) or, if sooner, with respect to any person who has filed an application, on the effective date of an order of the Secretary approving or denying approval of such application with respect to such use of the device under this section.

"(2) For the purposes of this subsection, the term 'closing date' means, with respect to a device, the first day of the thirty-first calendar month which begins after the month in which the device is declared to be subject to scientific review under this section, except that, if in the opinion of the Secretary it would not involve any undue risk to the public health, he may on application or on his own initiative postpone such closing date with respect to any particular use or uses of a device until such later date (but not beyond the close of the sixtieth month after the month of such declaration) as he determines is necessary to permit completion, in good faith and as soon as practicable, of the scientific investigations necessary to establish the safety and effectiveness of such use or uses. The Secretary may terminate any such postponement at any time if he finds that such postponement should not have been granted or that, by reason of a change in circumstances, the basis for such postponement no longer exists or that there has been a failure to comply with a requirement of the Secretary for submission of progress reports or with other conditions attached by him to such postponement."

PROHIBITED ACTS

SEC. 302. (a) Paragraph (e) of section 301 of such Act is amended (1) by striking out "or" before "512 (j), (l), or (m)" and (2) by inserting ", 514(k), or 516(a)" after "512 (j), (l), or (m)".

(b) Paragraph (l) of such section 301 is amended (1) by inserting "or device" after the word "drug" each time it appears therein, and (2) by striking out "505," and inserting in lieu thereof "505 or 514, as the case may be,".

TITLE IV—NOTIFICATION OF DEFECTIVE DEVICES; REPAIR OR REPLACEMENT

SEC. 401. Chapter V of such Act, as amended by sections 201 and 301(b) of this Act, is further amended by adding at the end thereof the following new section:

"NOTIFICATION OF DEFECTS IN, AND REPAIR OR REPLACEMENT OF, DEVICES

"SEC. 515. (a)(1) Every person who acquires information which reasonably supports the conclusion that device intended for human use, which has been produced, assembled, distributed, or imported by him (A) contains a defect which could create a substantial risk to the public health or safety, or (B) on or after the effective date of an applicable performance standard promulgated pursuant to section 513 fails to comply with such standard, shall immediately notify the Secretary of such defect or failure to comply if such device has left the control of the manufacturer. No information or statements exclusively derived from the notification required by this subsection (except for information contained in records required to be maintained under any provision of this Act) shall be used as evidence in any proceeding brought against a natural person pursuant to section 303 of this Act with respect to a violation of law occurring prior to or concurrently with the notification.

"(2) The notifications required by paragraph (1) of this subsection shall contain a clear description of such defect or failure to comply, an evaluation of the hazard related thereto, and a statement of the measures to be taken to correct such defect or failure or to effect protection against the hazard created by the defect or failure.

"(3) For purposes of this section, the term 'defect' means a deficiency in design, materials, or workmanship, and does not include any deficiency resulting from use of improper accessories or from improper installation, maintenance, repair, or use of the device or any deficiency resulting from normal use of the device after the lifetime represented by the manufacturer has expired.

"(b)(1) If the Secretary determines that a device intended for human use distributed in commerce presents a substantial hazard to the public health or safety and that notification is required in order adequately to protect the public from such hazard, he shall immediately make certain that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons (including manufacturers, distributors, retailers, health professionals, and users) who should properly receive such notification in order to reduce or eliminate the effects of such hazard.

"(2) Where the Secretary determines that users shall not be notified under paragraph (1), he shall provide those health professionals who receive notification an opportunity to comment on the advisability of notifying the general public of the hazard. Within thirty days after such notification the Secretary shall notify the general public of the hazard, if after reviewing such comments, he determines that such notification will not endanger the public health.

"(c) If the Secretary determines (after affording interested parties, including con-

sumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e)) that a device intended for human use distributed in commerce, presents a substantial hazard to the public health or safety and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such device to take whichever of the following actions the person to whom the order is directed elects to the extent that the consent of the purchaser and, where appropriate, his physician, is obtained:

"(1) bring such device into conformity with the requirements of the applicable performance standard or repair the defect in such device;

"(2) replace such device with a like or equivalent device which complies with the applicable performance standard or which does not contain the defect; or

"(3) refund the purchase price of such device (less a reasonable allowance for use, if such device has been in the possession of a user for one year or more (A) at the time of public notice under subsection (c), or (B) at the time the user receives actual notice of the defect or noncompliance, whichever first occurs.

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Secretary for taking action under whichever of the preceding paragraphs of this subsection such person has elected to act. The Secretary shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Secretary shall specify which person has the election under this subsection.

"(d)(1) No charge shall be made to any person (other than a manufacturer, distributor, or retailer) who avails himself of any remedy provided under an order issued under subsection (c), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

"(2) An order issued under subsection (b) or (c) with respect to a device may require any person who is a manufacturer, distributor, or retailer of the device to reimburse any other person who is a manufacturer, distributor, or retailer of such device for such other person's expenses in connection with carrying out the order, if the Secretary determines such reimbursement to be in the public interest.

"(3) An order under subsection (c) may be issued only after an opportunity for an informal hearing. If the Secretary determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Secretary may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Secretary if such class fails to designate such a representative).

"(e) The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law."

PROHIBITED ACTS

SEC. 402. Section 301 of such Act, as amended by section 302 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(q)(1) The failure or refusal to furnish any notification or other material or information as required by section 515 or 516; or (2) the failure or refusal to comply with any requirement prescribed under authority of section 515(c)."

CONFORMING AMENDMENT

SEC. 403. Section 502(j) of such Act is amended by inserting "or manner" after "dosage."

TITLE V—REQUIREMENT OF GOOD MANUFACTURING PRACTICE

SEC. 501. Section 501 of the Federal Food, Drug, and Cosmetic Act, as amended by sections 202 and 301 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(g) If it is a device and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, holding, or installation do not conform to, or are not operated or administered in conformity with, current good manufacturing practice, as determined by regulations of the Secretary promulgated after consultation with all interested persons and after an opportunity for a hearing, to assure that such device is safe and effective."

TITLE VI—RECORDS AND REPORTS; INSPECTION AND REGISTRATION OF ESTABLISHMENTS; OFFICIAL NAMES

SEC. 601. Chapter V of the Federal Food, Drug, and Cosmetic Act is further amended by adding at the end thereof the following new section:

"RECORDS AND REPORTS ON DEVICES

"SEC. 516. (a)(1) Every person engaged in manufacturing, processing, distributing, or selling a device that is subject to a performance standard promulgated under section 513, or with respect to which there is in effect an approval under section 514 of an application filed under subsection (c) thereof, shall establish and maintain such records, and make such reports to the Secretary, of data relating to clinical experience and other data or information, received or otherwise obtained by such person with respect to such device, and bearing on the safety or effectiveness of such device, or on whether such device may be adulterated or misbranded, as the Secretary may by general regulation, or by special regulation or order applicable to such device, require. In prescribing such regulations or issuing such orders the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients and shall provide, wherever he deems it appropriate, for the examination, upon request, by the persons to whom such regulations or orders are applicable, of similar information received or otherwise obtained by the Secretary.

"(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(b) Subsection (a) shall not apply to—

"(1) practitioners licensed by law to prescribe or administer drugs and devices and who manufacture or process devices solely for use in the course of their professional practice;

"(2) persons who manufacture or process devices solely for use in research or teaching and not for sale; and

"(3) such other classes of persons as the Secretary may by or pursuant to regulation exempt from the application of this subsection upon a finding that such application is not necessary to accomplish the purposes of this section.

"(c) Every person engaged in manufacturing a device subject to this Act shall provide to the Secretary upon his request such technical data and other data or information with respect to such device as may be reasonably required to carry out this Act."

INSPECTION RELATING TO DEVICES

SEC. 602. (a) The second sentence of subsection (a) of section 704 of such Act is amended by inserting "or prescription devices" after "prescription drugs" both times it appears.

(b) The third sentence of such subsection is amended (1) by striking out "for prescription drugs", (2) by striking out "and antibiotic drugs" and inserting in lieu thereof ", antibiotic drugs, and devices", (3) by striking out "or section 507 (d) or (g)" and inserting in lieu thereof ", section 507 (d) or (g), section 514(k), or section 516", and (4) by inserting "or devices" after "other drugs", inserting "or of a device subject to section 514" after "new drug", and inserting "or section 516" after "section 505(j)".

(c)(1) Paragraph (1) of the sixth sentence of such subsection is amended by inserting "or devices" after "drugs" each time such term occurs.

(2) Paragraph (2) of that sentence is amended by inserting ", or prescribe or use devices, as the case may be," after "administer drugs"; and by inserting ", or manufacture or process devices," after "process drugs".

(3) Paragraph (3) of that sentence is amended by inserting ", or manufacture or process devices," after "process drugs".

REGISTRATION OF DEVICE MANUFACTURERS; OFFICIAL NAMES OF DEVICES

SEC. 603. (a) Section 510 of such Act is amended as follows:

(1) The section heading is amended by inserting "AND DEVICES" after "DRUGS".

(2) Subsection (a)(1) of such section is amended by inserting "or device package" after "drug package"; by inserting "or device" after "the drug"; and by inserting "or user" after "consumer".

(3) Subsection (b) and (c) of such section are amended by inserting "or a device or devices" after the word "drugs" every time such term occurs.

(4) Subsection (d) is amended to read as follows:

"(d)(1) Every person duly registered in accordance with the foregoing subsections of this section shall immediately register with the Secretary any additional establishment which he owns or operates in any State and in which he begins the manufacture, preparation, propagation, compounding, or processing of a drug or drugs, or of a device or devices.

"(2) Every person who is registered with the Secretary pursuant to the first sentence of subsection (b) or (c) or paragraph (1) of this subsection shall, if any device is thereafter manufactured, prepared, propagated, compounded, or processed in any establishment with respect to which he is so registered, immediately file a supplement to such registration with the Secretary indicating such fact."

(5) Subsection (g) is amended by inserting "or devices" after "drugs" each time such term occurs in paragraphs (1), (2), and (3) of such subsection.

(6) The first sentence of subsection (i) is amended by inserting ", or a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "shall require such establishment to provide the information required by subsection (j) in the case of a device or devices and" immediately before "shall include", and by inserting "or devices" after "drugs".

(7) Subsection (j) is amended—

(A) in paragraph (1), preceding subparagraph (A), by striking out "a list of all drugs (by established name" and inserting in lieu thereof "a list of all drugs and a list of all devices (in each case by established name"; and by striking out "drugs filed" and inserting "drugs or devices filed" in lieu thereof;

(B) in subparagraph (A) of paragraph

(1), by striking out "such list" and inserting "the applicable list" in lieu thereof; by inserting "or a device contained in the applicable list with respect to which a performance standard has been promulgated under section 513 or which is subject to section 514," after "512,"; and by inserting "or device" after "such drug" each time it appears;

(C) in subparagraph (B) of paragraph (1), before clause (i), by striking out "drug contained in such list" and inserting "drug or device contained in an applicable list" in lieu thereof;

(D) in clause (i) of paragraph (1)(B), by amending such clause to read as follows—

"(i) which drug is subject to section 503(b)(1), or which device, is a prescription device a copy of all labeling for such drug or device, a representative sampling of advertisements for such drug or device, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular drug product or device, or";

(E) in clause (ii) of paragraph (1)(B), by amending such clause to read as follows:

"(ii) which drug is not subject to section 503(b)(1), or which device is not a prescription device, the label and package insert for such drug or device and a representative sampling of any other labeling for such drug or device;"

(F) in subparagraph (C) of paragraph (1), by striking out "such list" and inserting "an applicable list" in lieu thereof;

(G) in subparagraph (D) of paragraph (1), by striking out "the list" and inserting "a list" in lieu thereof; by inserting "or the particular device contained in such list is not subject to a performance standard promulgated under section 513, or is not a prescription device" after "512,"; and by inserting "or device" after "particular drug product";

(H) in paragraph (2), by inserting "or device" after "drug" each time it appears and, in subparagraph (C), by inserting "each" before "by established name".

(b) Subsection (o) of section 502 of such Act is amended by striking out "is a drug and".

(c) The second sentence of section 801(a) of such Act is amended by inserting "or devices" after "drugs" both times such words appear.

Official Names

(d)(1) Subparagraph (1) of section 502(e) of such Act is amended by striking out "subparagraph (2)" and inserting in lieu thereof "subparagraph (3)".

(2) Subparagraph (2) of section 502(e) of such Act is redesignated as subparagraph (3) and is amended by striking out "this paragraph (e)" and inserting in lieu thereof "subparagraph (1)".

(3) Paragraph (e) is further amended by inserting a new subparagraph (2) as follows:

"(2) If it is a device, unless its label bears, to the exclusion of any other nonproprietary name, the established name (as defined in subparagraph (4)) of the device, if such there be, prominently printed in type at least half as large as that used thereon for any proprietary name or designation for such device: *Provided*, That to the extent compliance with the requirements of this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary."

(4) Such paragraph is further amended by adding at the end thereof a new subparagraph as follows:

"(4) As used in subparagraph (2), the term 'established name', with respect to a device, means (A) the applicable official name designated pursuant to section 508, or (B) if there is no such name and such device is an article recognized in an official compendium then the official title thereof in such compendium, or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name of such device, if any."

(e) Section 508 of such Act is amended (1) in subsections (a) and (e) by adding "or device" after "drug" each time it appears; (2) in subsection (b) by adding after "all supplements thereto," the following: "and at such times as he may deem necessary shall cause a review to be made of the official names by which devices are identified in any official compendium, and all supplements thereto"; (3) in subsection (c)(2) by adding "or device" after "single drug", and by adding "or to two or more devices which are substantially similar in design and purpose" after "purity,"; (4) in subsection (c)(3) by adding "or device" after "useful drug", and after "drug or drugs each time it appears; and (5) in subsection (d) by adding "or devices" after "drugs".

(f) Section 301 of the Drug Amendments of 1962 (76 Stat. 793) is amended by inserting "and devices" after "drugs" each time such word appears, except that "or devices" is inserted after "which drugs" and after "intrastate commerce in such drugs".

TITLE VII—GENERAL PROVISIONS

ADVISORY COUNCIL ON DEVICES, ETC.

SEC. 701. Chapter VII of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new section:

"ADVISORY COUNCIL ON DEVICES, AND OTHER ADVISORY COMMITTEES

"SEC. 708. (a) For the purpose of advising the Secretary with respect to matters of policy in carrying out the provisions of this Act relating to devices, there is established in the Department an Advisory Council on Devices appointed by the Secretary without regard to the civil service and classification laws. The persons so appointed shall be manufacturers and other persons with special knowledge of the problems involved in the regulation of various kinds of devices under this Act, members of the professions using such devices, scientists expert in the investigational use of devices, engineers expert in the development of devices, and members of the general public representing consumers of devices.

"(b) The Secretary may also from time to time appoint, without regard to the civil service or classification laws, in addition to the advisory councils and committees otherwise authorized under this Act, such other advisory committees or councils as he deems desirable.

"(c) Members of an advisory council or committee appointed pursuant to subsection (a) or (b) who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the council or committee or otherwise engaged in its business, be compensated at per diem rates fixed by the Secretary but not in excess of the rate for grade GS-18 of the General Schedule at the time of such service, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by title 5, United States Code, section 5703, for persons in the Government service employed intermittently."

RESEARCH AND STUDIES

SEC. 702. Chapter VII of such Act, as amended by section 701 of this Act, is further amended by adding at the end thereof the following new section:

"RESEARCH AND STUDIES RELATING TO DEVICES

"SEC. 709. (a) The Secretary is authorized, directly or through contracts with public or private agencies, institutions, and organizations and with individuals, to plan, conduct, coordinate, and support—

"(1) research and investigation into the safety and effectiveness of devices, and into the causes and prevention of injuries or other health impairments associated with exposure to or use of devices;

"(2) studies relating to the development and improvement of device performance standards, and device testing methods and procedures; and

"(3) education and training with respect to the proper installation, maintenance, operation, and use of devices.

"(b) In carrying out the purposes of subsection (a), the Secretary, in addition to or in aid of the foregoing—

"(1) shall, to the maximum practicable extent, cooperate with and invite the participation of other Federal or State departments and agencies having related interests, and interested professional or industrial organizations;

"(2) shall collect and make available, through publications and by other appropriate means, the results of, and other information concerning, research and other activities undertaken pursuant to subsection (a); and

"(3) may procure (by negotiation or otherwise) devices for research and testing purposes, and sell or otherwise dispose of such products."

PUBLICITY

SEC. 703. Section 705 of such Act is amended by adding at the end thereof the following new subsection:

"(c) To assist in carrying out the provisions of this Act, the Secretary may cause to be disseminated information regarding standards, testing facilities, and testing methods promulgated, established, or approved under this Act and other information relating to the nature and extent of hazards subject to this Act. Subject to the provisions of section 301(j), the Secretary may also cause to be published reports summarizing clinical data relevant to marketed products approved under this Act."

SEC. 704. Chapter IX of such Act is amended by adding at the end thereof the following new subsection:

"EFFECT ON STATE REQUIREMENTS

"SEC. 903. (a) Whenever a performance standard pursuant to section 513 or scientific review pursuant to section 514 under this Act is in effect, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same device unless such requirements are identical to the Federal requirements.

"(b) Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to a device for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal requirements.

"(c) Upon application of a State or political subdivision thereof, the Secretary may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as he may impose) a proposed safety requirement described in such application, where the proposed requirement—

"(1) imposes a higher level of performance than the Federal standard,

"(2) is required by compelling local conditions, and

"(3) does not unduly burden interstate commerce."

SEC. 705. Section 301(j) of such Act is amended by inserting "511" before "512", by inserting "513, 514, 515, 516" after "512", and by adding at the end thereof the follow-

ing new sentence: "The Secretary may provide any information which contains or relates to a trade secret or other matter referred to in this section or in section 1905 of title 18, United States Code, to a contractor in furtherance of the provisions of this Act, and such contractor shall take such security precautions as are prescribed in regulations promulgated by the Secretary and shall be subject to the provisions and penalties established in this Act and in section 1905 of title 18, United States Code."

SEC. 706. Section 201 of such Act is amended by striking subsection (h) and inserting in lieu thereof the following new subsection:

"(h) The term 'device' (except when used in paragraph (n) of this section and in sections 301(i), 403(f), 502(c), and 602(c)) means instruments, apparatus, implements, machines, contrivances, implants, in vitro reagents, and other similar or related articles, including their components, parts, and accessories (1) recognized in the official National Formulary, the official United States Pharmacopeia or any supplement to them; or (2) intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment, or prevention of disease in man or other animals; or (3) intended to affect the structure or any function of the body of man or other animals; and (4) which do not achieve any of their principal intended purposes through chemical action within or on the body of man or other animals and which are not dependent upon being metabolized for the achievement of any of their principal intended purposes."

SEC. 707. Section 502 of such Act is amended by adding at the end thereof the following new paragraphs:

"(r) In the case of any device that is a prescription device, if its advertising is false or misleading in any particular.

"(s) In the case of any prescription device distributed or offered for sale in any State, unless the manufacturer, packer, or distributor thereof includes in all advertisements, and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that device a true statement of (1) the established name as defined in section 502(e), printed prominently and in type at least half as large as that used for any trade or brand name thereof, (2) a full description of the components of such device or the formula showing quantitatively each ingredient of such device to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing, and (3) such other information in brief summary relating to side effects, contraindications, and effectiveness as shall be required in regulations which shall be issued by the Secretary after an opportunity for a hearing: *Provided*, That (A) except in extraordinary circumstances, no regulation issued under this paragraph shall require prior approval by the Secretary of the content of any advertisement, and (B) no advertisement of a prescription device, published after the effective date of regulations issued under this paragraph applicable to advertisements of prescription devices, shall, with respect to the matters specified in this paragraph or covered by such regulations, be subject to the provisions of section 12 through 17 of the Federal Trade Commission Act, as amended (15 U.S.C. 52–57). This paragraph shall not be applicable to any printed matter which the Secretary determines to be labeling as defined in section 201(m) of this Act."

SEC. 708. (a) Section 201 of such Act is amended by adding at the end thereof the following:

"(y) The term 'prescription device' means any device which the Secretary shall designate by regulation as being restricted to sale or distribution only upon the written or oral authorization of a practitioner licensed by law to administer or use such device and under such other conditions as the Secretary may by regulation prescribe. The Secretary may designate as a prescription device, pursuant to the preceding sentence, only a device which:

"(1) because of its potentiality for harmful effect, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer or use such device; or

"(2) is limited by an approved application under section 514 to use under the professional supervision of a practitioner licensed by law to administer or use such device."

SEC. 709. Section 304(a)(2) of such Act is amended to delete "and" before "(C)," to replace the period with a comma, and to add the following at the end thereof: "and (D) any adulterated or misbranded device."

EXPORTATION OF DEVICES

SEC. 710. The last sentence of section 801(d) of such Act is amended by inserting before the period at the end thereof: ", or to authorize the exportation of any device which does not comply with section 513 or 514 of this Act. The Secretary may permit exportation of any article if he determines that such exportation is in the interest of public health and safety, and has the approval, of the country to which it is intended for export."

EFFECTIVE DATES AND TRANSITIONAL PROVISIONS

SEC. 711. (a) Except as provided in subsections (b) and (c) of this section, the foregoing provisions of this Act shall take effect on the date of the enactment of this Act.

(b) Paragraph (f) of section 501 of the Federal Food, Drug, and Cosmetic Act, as added to such section by section 301(a) of this Act, shall, with respect to any particular use of a device, take effect (1) on the first day of the thirteenth calendar month following the month in which this Act is enacted, or (2) if sooner, on the effective date of an order of the Secretary approving or denying approval of an application with respect to such use of the device under section 514 of such Act as added by section 301(b) of this Act.

(c) Any person who, on the day immediately preceding the date of enactment of this Act, owned or operated any establishment in any State (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act) engaged in the manufacture or processing of a device or devices, shall, if he first registers with respect to devices, or supplements his registration with respect thereto, in accordance with subsection (b) of section 510 of that Act (as amended by section 603 of this Act) prior to the first day of the seventh calendar month following the month in which this Act is enacted, be deemed to have complied with that subsection for the calendar year 1975. Such registration, if made within such period and effected in 1976, shall also be deemed to be in compliance with such subsection for that calendar year.

The Committee on Labor and Public Welfare, to which was referred the bill (S. 2368) to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts a substitute text which appears in italic type in the reported bill.

I. HISTORY OF REGULATION OF MEDICAL DEVICES AND NEED FOR LEGISLATION

Federal authority to regulate medical devices was first provided in the Federal Food, Drug, and Cosmetic Act of 1938. There had been no provisions in the Food and Drugs Act of 1906 to regulate device safety and claims made for devices. During the 1930's reformers pressed for enactment of legislation to enable the Food and Drug Administration (FDA) to undertake the same kind of effort against unsafe or quack devices as the 1906 Act had allowed against impure or fraudulent drugs.

The 1938 Act defined "device" and provided the same basic authority over devices as applied to drugs, with the important exception of preclearance authority which was only provided for new drugs. From legislative history it is clear the term "device" was intended to include both quack machines and legitimate articles such as surgical instruments, trusses, prosthetic devices, ultraviolet lights, contraceptives, and orthopedic shoes. No additional authority has been provided since 1938 to improve public protection against unsafe or unreliable devices.

At the time the 1938 Act became law, many of the legitimate devices were relatively simple items which applied basic scientific concepts so that experts using them could recognize whether the device was functioning. The major concern with these devices was assuring truthful labeling. In the early years, FDA's activity concerned grossly hazardous products such as lead nipple shields which exposed nursing infants to danger of lead poisoning. FDA also attacked nasal vaporizors and stem pessaries used in contraception or for producing abortion which had the potential for causing puncture or infection. FDA efforts against thermometers which failed to record properly stimulated the development of standards for these products which greatly improved their reliability. Similarly, FDA actions against prophylactics (condoms) forced industry measures to reduce the incidence of defects in these products.

Immediately after enactment of the 1938 Act, FDA made numerous seizures of misbranded devices. During World War II, however, regulatory activity in this area dropped off because war needs resulted in scarcity of metals and other materials used to make nonessential devices. When metals and other materials were again available after the war, numerous devices again appeared, many of which were in violation of the Act.

Many of FDA's legal actions involved fraudulent devices. Since ancient times, mankind has used various kinds of gadgetry to cure or ward off serious ailments. Charms and talismans have been used throughout recorded history by people who have attributed magical qualities to them. Inventive individuals have sought to apply the latest scientific discoveries to the alleviation of health conditions. For example, after Benjamin Franklin's discovery of the electrical force present in lightning, numerous individuals sought to use electrical energy to treat human ailments. At the time of the American Revolution, a gadget known as the Perkins Tractor became quite popular. This device was claimed to be capable of drawing disease out of the body by its electrical current. Although the construction and fantastic claims made for many quack devices over the years often seem quite amusing, use of these devices can have serious health consequences. Whether sold to a consumer or a health professional, a device which does not perform as promised may pose a risk to health as well as an economic detriment to the purchaser. Reliance on unwarranted claims made for a device, recommending use in serious disease conditions, may induce the purchaser to forego seeking timely and appropriate medical treatment. Fraudulent devices were a major concern of Congress in 1938 when it gave FDA authority to regulate devices.

A quack device which was the subject of

FDA action in the late 1940's was the Spectochrome, of one Dinshah P. Ghadiali, which consisted of a 1,000-watt lamp, in a cabinet supplied with colored glass slides to fit an aperture through which the light bathed the patient. By becoming a member of Ghadiali's "Institute" for a fee of $90 a person could obtain the lamp plus voluminous literature which sought to cloak the scheme in oriental mysticism and sanctity. Claims were made for its value in treating such diseases as diabetes, cancer, tuberculosis and syphilis, and several thousand lamps were distributed. The first action against the lamp was a single seizure. After a trial which lasted thirty days, the jury rendered a verdict for the Government, and the court enjoined distribution of the lamp. Ghadiali, nevertheless, continued to ship it. Multpile seizures followed which did not stop him. Criminal prosecution was then filed against Ghadiali and his corporation. After a trial, in which the Government presented an array of physicians and relatives of victims who had used the device and died from the diseases it was represented to cure. After a verdict of guilty, the court imposed against Ghadiali and his corporation fines totaling $20,000 and a three-year prison sentence against Ghadiali, but imprisonment was suspended on the condition that the business be stopped.

The Spetochrome case is related in detail, since it indicates the vast amount of effort the Government must expend in stopping the marketing of bogus devices.

Another type of device which was the subject of FDA action was the "Zerret Applicator," popularly called the "Plastic Dumbell," which consisted of two plastic water tumblers filled partially with water, sealed with paraffin, joined at their mouths by scotch tape, and set into paraffin in the handle of plastic baby rattles. It was claimed to introduce in the human body the energy given off by "expanded hydrogen atoms" or "Z rays" alleged to be present in the liquid sealed in the tumblers. The user was to hold the article in his hands keeping the feet flatly on the floor without crossing the legs, or while reclining. This it was claimed, caused the atoms of the body to expand and bring health through the hands. This article costing $50, was offered to correct obesity and abnormal thinness due to glandular malfunctioning, correct diarrhea and constipation, reverse the aging process, rejuvenate the user, and cure "any disease known to mankind."

The "Vrilium Tube" was a small pencil-shaped tube containing a glass vial of a white granular substance (barium chloride) worth one two-thousandths of a cent, but this tiny gadget, also called the "Magic Spike," was sold for $300 to gullible sick people. They were told that it had radioactive powers that would cure disease when it was worn on the body, and these trusting purchasers were using it for cancer, diabetes, leukemia, ulcers, and other serious diseases.

One popular area for quack devices has been diagnostic products. During the 1950's, the biggest source of such devices was the Electronic Medical Foundation of San Francisco. On March 16, 1954, an injunction barred shipment in interstate commerce of "Blood Specimen Carriers" for use in the Foundation's diagnostic machine, the "Radioscope." There were estimated to be about 5,000 of the devices throughout the country. The diagnostic service was based upon the theory that any ailment can be diagnosed by measuring emanations from a dried blood spot on sterile paper. Practitioners who mailed in the blood spots taken from their patients received, for a fee, a diagnosis blank filled in with the diseases which the patient was supposed to have, their location in the body, and the recommended "dial settings" for treatment with the Foundation's devices. The blood-spotted paper was put into a slot of the electrical device called the "Radioscope" while the operator stroked with a wand the abdomen of a person holding metal plates connected to the device. If a wand "stuck" to a particular location, that was supposed to be a manifestation of an "electronic reaction," and the operator determined from this the identity, kind, location, and significance of any disease present. Investigation disclosed that this diagnostic service was incapable of distinguishing the blood of animals or birds from that of man, or that of the living from the dead. Even a spot of coal-tar dye was reported as indicating systematic toxemia. The Foundation's literature listed hundreds of disease conditions which could be treated by their machines once the diagnoses had been made by means of the "Radioscope." Other devices for which diagnostic as well as therapeutic claims were made were the "Drown Radio Therapeutic Instrument," the "Magnetic Affinitizer," and the "Neuromicrometer." These devices involved their own bizarre intricacies of operation.

A considerable number of devices for applying electricity to the body were subject to regulatory action. This included: (1) devices which produced galvanic (direct) current of low voltage by means of dry cells or batteries ("Electreat," "Acme Electric Machine"), (2) devices which used alternating current with a transformer to reduce the voltage ("Sinuothermic," "Elector-Way"), (3) devices in which alternating current was added to galvanic in order to obtain a rippled or pulsating galvanic current ("Facial and Body Genie," "Vitalitone," "Elector-Pulse"). Other devices sought to use radioactivity, ultrasonic energy, or infrared, or ultraviolet light to diagnose or treat disease.

Some fraudulent devices have been sold to practitioners rather than consumers. One such device as the Micro-Dynameter, a string galvanometer for measuring minute electrical currents which was claimed to be capable of allowing diagnosis of particular diseases based on each disease's electrical potential. Nearly 1,200 units of the product were destroyed during one 12-month period after FDA obtained an injunction against continued shipment of the device in 1963.

FDA began focusing more attention on hazards from legitimate medical devices around 1960. The post-war era was characterized by many new medical discoveries and saw the development of a vast array of new and complicated medical equipment. Inventions included heart pacemakers, kidney dialysis units, and artificial blood vessels and heart valves.

Although many lives have been saved or improved by the new discoveries, the potential for harm to consumers has been heightened by the critical medical conditions in which sophisticated modern devices are used and by the complicated technology involved in their manufacture and use. In the search to expand medical knowledge, new experimental approaches have sometimes been tried without adequate premarket clinical or animal testing, quality control in materials selected, or obtaining patient consent.

The present law's inadequacy has became a matter of acute concern because of the rapid technological change in the medical device field. The sophistication of modern medical devices makes careful testing necessary to determine if a device operates safely and as claimed. In early regulatory actions FDA was able to carry its burden of proof that a device is unsafe or misbranded through expert testimony; more recently FDA has had to undertake testing of devices suspected of violating the law. Many devices are so intricate that skilled health professionals are unable to ascertain whether they are defective. Increasing numbers of patients have been exposed to increasingly complex devices which pose serious risk if inadequately tested or improperly designed or used.

S. 2368 recognizes the benefits that medical research and experimentation to develop devices offers to mankind. It recognizes, too, the need for regulation to assure that the public is protected and that health professionals can have more confidence in the performance of devices.

The need for device legislation is demonstrated by the history of several cases against unsafe devices undertaken by FDA during the past few years. Hundreds of thousands of consumers bought a device called Relaxicisor during the 1950's and 1960's. This device was represented as an aid in reducing weight and operated by sending shocks through the muscles. Testing revealed the device could aggravate muscular, gastrointestinal, and other disorders. It took FDA five years to complete court proceedings necessary to eliminate Relaxicisors from the market. FDA expended some half-million dollars in this effort.

FDA's experience eliminating the Diapulse device from the market is another case demonstrating the unwieldy procedures and lack of preventive provisions of present law. Diapulse was a heat-generating device which was marketed to medical practitioners for some 121 therapuetic claims. The firm lacked scientifically valid data to substantiate the efficacy of the device in any of the conditions for which it was promoted. The first seizure of a Diapulse device occurred in December 1965. As a result of lengthy court proceedings against the device and company appeals it was not until 1972 that injunction against the manufacturer was obtained. During fiscal year 1973, FDA seized over 350 Diapulse devices.

In the late 1960's two important court decisions indicated that certain products which are in the legal grey area between drugs and devices may be considered drugs and hence subject to premarket clearance. In *Amp, Inc.* v. *Gardner*, 389 F. 2d 825 (2 Cir. 1968), the Court of Appeals for the Second Circuit held that a nylon suture was a new drug and not a device. Shortly thereafter the Supreme Court held that an antibiotic sensitivity disc was a drug in *United States* v. *An Article of Drug . . . Bacto-Unidisk*, 395 U.S. 954 (1968). As a result of these decisions FDA classified as drugs soft contact lenses, a pregnancy kit, and intrauterine contraceptive devices which contain drugs or trace metals. FDA has administratively developed a distinction between drug and device, which favors classifying a product as a drug if its intended action is chemical, or based on highly complex technology potential hazards of which may be reduced through new drug controls. FDA has tried to avoid lengthy court battles that could tie up the rest of its efforts.

The need for more comprehensive authority to regulate medical devices has been recognized by Presidents Kennedy, Johnson, and Nixon. In 1969, Dr. Theodore Cooper, Director of the National Heart and Lung Institute, headed a panel to review the need for additional medical device legislation. That panel reported its results in 1970. The Cooper committee searched the scientific literature for accounts of injuries from medical devices. Some 10,000 injuries were recorded, of which 731 resulted in death. For example, 512 deaths and 300 injuries were attributed to heart valves; 89 deaths and 186 injuries to heart pacemakers; 10 deaths and 8,000 injuries to intrauterine devices. After hearing the views of the medical community, the industry and consumer representatives, the Cooper Committee agreed with past proposals calling for device legislation to provide for standard-setting for certain devices and premarket clearance for others. A third category would be exempt from standards or preclearance. The Cooper committee also recommended that a balance be struck between the need

for continuing research and the need for improved patient protection through a system of independent peer review for experimental devices.

II. HEARINGS

The Committee held two days of hearings on medical device legislation and received testimony from twenty witnesses representing the Administration, industry groups, consumer groups, and professional groups. All witnesses agreed that there was a general need for medical device legislation although each had specific recommendations for changes in the Chairman of the Health Subcommittee, Senator Kennedy's bill, S. 1446, the Administration's bill introduced by Senator Javits; and S. 1337, introduced by Senator Nelson.

Congressman L. H. Fountain, Chairman of the House Intergovernmental Relations Subcommittee testified that "medical device legislation is sorely needed." In his testimony, he reviewed the findings of 5 days of hearings before his Subcommittee concerned with issues regarding the safety and effectiveness of particular medical devices; intrauterine contraceptive devices.

The Administration was represented by Assistant Secretary for Health Charles C. Edwards, who was accompanied by Dr. Alexander M. Schmidt, Commissioner of the Food and Drug Administration. Dr. Edwards stated "we support this legislation and urge its prompt enactment." His testimony recounted the experience FDA has had in trying to regulate medical devices in the absence of specific device legislation. Dr. Edwards' testimony also reviewed the findings of the "Cooper Committee," established by the Department of Health, Education, and Welfare in 1969 to review the need for medical device legislation. After a thorough search of the scientific literature for injuries associated with medical devices, the "Cooper Committee" reported that there were 10,000 serious injuries of which 731 resulted in death. The "Cooper Committee" also endorsed the need for medical device legislation. Dr. Edwards testified that "the increasing sophistication of medical devices has outpaced the Department's ability to protect the public from those that are faulty. One reason for this is that current law imposes no duty upon medical device manufacturers to establish a safety or efficacy of their products prior to marketing." Dr. Edwards went on to testify that the Department did not "have authority to prescribe standards of safety to which devices must conform."

Dr. Sidney Wolfe testified on behalf of the Health Research Group of Washington, D.C. Dr. Wolfe's testimony described the hazards associated with the use of life-supporting medical devices which had been developed without any regulatory oversight. He expressed the view that the premarket clearance section of the legislation was the key to appropriate safeguarding of the public health, and questioned whether standard setting would provide an adequate guarantee of safety or efficacy.

Dr. Russel J. Thompson, M.D., of the Silas B. Hayes Army Hospital at Fort Ord testified about his experience with the intrauterine device. He felt that the history of the development of IUDs illustrated the need for device regulation and testified:

"* * * under current standards of nonregulation in the United States, I could take a paperclip and fashion it into an IUD. I could begin inserting it into women without even informing them that it is an experimental and never-tested IUD, and I would not even have to inform the FDA of my newly invented IUD."

The testimony of Joel J. Noble, the Director of the Emergency Care Research Institute in Philadelphia also endorsed the need for medical device legislation. He testified about the results of his research which showed that:

"* * * the problems associated with most medical devices which may lead to adverse affects, including injury or death, are, in order of decreasing incidence: (1) operator error resulting from inadequate training, (2) deficiencies in repair maintenance inspection and control of devices within health care facilities, (3) fundamental design deficiencies, (4) deficiencies in manufacturing quality control."

Foster Whitlock, Vice Chairman, Board of Directors, Johnson and Johnson and the Chairman-Elect of the Board of Directors of the Pharmaceutical Manufacturers Association, spoke on behalf of an industry panel which consisted of Kenneth Marshall of the Health Industries Association; James D. Weirman of the Medical Surgical Manufacturers Association; Thomas E. Holleran of the National Electrical Manufacturers Association; Rodney R. Munsey of the Pharmaceutical Manufacturers Association; and Adrian L. Ringuette of the Scientific Apparatus Makers Association. Mr. Whitlock, on behalf of the panel, testified:

"Let me start by saying that in our opinion, S. 2368 is in most respects responsive to the needs of the public. We are in basic accord with its major provisions."

Mr. Whitlock and each of the panel members presented a series of specific recommendations for changes in S. 2368, each of which was considered by the Committee during its Executive Committee consideration of the measure, and many of which were incorporated into the Committee-reported bill.

Dr. Ralph B. Wolfe testified on behalf of the Planned Parenthood Federation of America. He responded to the concerns raised by Russell Thompson about the safety and effectiveness of IUDs and recounted the experience of his organization using the IUD. With regard to the specific legislation, Dr. Wolfe testified overall that:

"* * * The proposed legislation is comprehensive and meritorious. It should satisfy the long overdue need for strict regulation in an increasingly important area related to the public's well-being."

Dr. George Meyers representing the American Dental Association testified to the effect that the House of Delegates of the ADA had not yet formally reviewed the legislation, but that he personally endorsed it and that it was appropriate for the dental industry to be included in its jurisdiction. Mr. James Murray represented the American Dental Trade Association. In his testimony, he agreed that there was a need for medical devices legislation but argued that dental devices should be exempted from the provisions of the legislation. He pointed out that most dental devices do not have great potential for harm and are not life threatening, and that the market for dental products is very small. He testified:

"* * * To subject dental devices to the costly premarket clearance provision of the proposed legislation would seriously impair the improvement of existing dental devices and the development of new ones."

Carl Parker represented the Dental Manufacturers of America. His testimony also opposed the inclusion of the dental industry under the jurisdiction of this legislation.

Dr. Arthur Beall, Professor of Surgery at the Baylor College of Medicine represented the American College of Chest Physicians, the American College of Cardiology and the Society of Thorasic Surgery. Dr. Beall testified, "at the outset Mr. Chairman, let me say that S. 2368 is fundamentally a sound and helpful piece of legislation." Dr. Beall's testimony presented specific suggestions for improvement in the legislation all of which were considered by the Committee during its Executive session consideration of the measure and many of the suggestions were incorporated into the Committee-reported bill.

Dr. Gerald Ranier, a practicing thorasic and cardiovascular surgeon and Associate Clinical Professor of Surgery on Voluntary Faculty of the University of Colorado Medical School, testified on behalf of the Association for the Advancement of Medical Instrumentation. In his testimony, he stated that "AAMI supports, in principle, this legislation." His testimony also offered several specific suggestions for improvements, which were reviewed by the Committee during its Executive session in consideration of the bill.

The final witness was Dr. Richard E. Palmer, member of the Board of Trustees of the American Medical Association. He testified on behalf of the AMA that:

"We support the principles and many of the provisions contained in your bill, S. 2368, which are similar to a House counterpart bill, but we would like to offer in our supplementary statements suggestions for modifications with respect to the bill for the consideration of the Committee.

He also testified that:

"We believe that the general approach taken in the legislation should be supported. We think it is advisable that devices should be defined, identified and classified. Similarly, it is beneficial that provision should be made for maximum use not only of the expertise within the FDA, but also significant expertise which is to be found in the medical, scientific, and manufacturing communities. We are pleased that the legislation provides for the use of expert consultation on recommendations in the classification and evaluation of evidence upon which determination for safety effectiveness and proper classification are based.

III. COMMITTEE VIEWS ON THE MEDICAL DEVICES BILL

Committee views—Section 511

The Committee recognizes the great diversity among the various medical devices and their varying potentials for harm as well as their potential benefit to improved health. Therefore the Committee recommends that all medical devices be classified into one of three categories based upon the degree of risk to the public health and safety represented by each individual device or class of devices. The Committee believes that those devices for which insufficient information exists to assure effectiveness or to assure that exposure to such devices will not cause unreasonable risk of illness or injury, and for which standards or other means may not be appropriate to reduce or eliminate such risk of illness or injury, should be subject to the most rigorous kind of premarket scientific review. The Committee believes that in respect to other devices, if the nation's experts, who will be well represented on the classification panels, determine that it is appropriate to establish reasonable performance standards relating to safety and effectiveness in order to protect the public health and safety, then the devices may be placed in the standard-setting category. Finally, the Committee believes that if the panels conclude that still other devices are safe and effective when used in conjunction with instructions for usage and warnings of limitation, then neither the premarket clearance nor standard-setting mechanism should be necessary to protect the public health and safety.

It is the Committee's intent that the widest range of national expertise in the medical devices area should be utilized in the establishment of classification panels. The Committee recognizes that experts from the industry could significantly contribute to the work of such panels because of their knowledge of industry practices and available technology. The Committee was concerned, however, about potential conflict of interest if industry representatives were to have ulti-

mate decision-making responsibilities in an area that could vitally affect their own interest and perhaps their employment. The Committee therefore has provided that industry members may serve on the panels, but has specified that they be *non-voting* members.

The Committee was equally concerned that representatives of consumer interests be able to participate on the panels. The Committee has therefore designated a non-voting consumer panel member for each of the panels.

The Committee is aware that the Food and Drug Administration has already begun a preliminary classification of medical devices. In this regard, there have been considerable questions with regard to the appropriate weight that should be given to classifications already made by the panels now in existence under present law. These panels have not fully utilized or adhered to the criteria for classifications as embodied in this bill. Therefore the Committee does not believe that prior classifications should be accepted as such, but that a review of the work of these existing panels should be carried out. On the other hand, the Committee believes that the work of these panels has been most valuable and should wherever applicable, be utilized. Therefore, the Committee has authorized the Secretary to utilize the existing panels, and the information and findings developed by such panels, wherever review determines that to be the appropriate procedure.

The Committee recognizes the importance of the classification process. The report of the panel is considered to be a preliminary classification. This is to avoid a conflict which could arise if a device was classified by a panel under one classification and yet later failed to meet the statutory prerequisites for being so classified or met the statutory prerequisites for a different classification. The Committee wishes to make it clear that the classification report is to be used as guidance by the Secretary in pursuing the procedures set out in other sections for permanently subjecting devices to particular regulatory procedures. This preliminary report is intended to serve as notice to manufacturers and others of the intent to proceed in a certain direction and thereby provide industry with an opportunity to begin developing any data or information which may be needed later to support continued marketing of a device. Because of the preliminary nature of the classification there is no need to provide full administrative safeguards for this process, which thereby facilitates and expedites the chore of classifying thousands of devices. The Committee has provided for full administrative safeguards once classification is final and a course of action has been embarked upon.

The Committee believes that a manufacturer who thinks he has developed a significantly new or modified medical device should have the opportunity to petition for a classification of that new device. Until such time as that new product is classified the manufacturer may not market the product. The purpose of this provision is not intended to be strictly comparable to the new drug provisions in the Food, Drug and Cosmetic Act. This section is simply intended to provide a mechanism whereby devices which are new or which significantly differ from those devices previously classified, can be brought to the attention of the Secretary for the purpose of classification prior to marketing.

Section 513

This section authorizes the Secretary to establish standards for medical devices. The Committee purposely added the word "performance" before the word "standards" in this section. It is not the intention of the Committee to simply authorize the establishment of standards for the purpose of mechanically standardizing medical devices. The Committee believes that standards must relate to the safety or effectiveness (including reliability over time) of the device or other "performance" characteristics. The Committee intends that performance standards shall also go to questions of indicated uses, proper labeling, instructions for use, warnings and uniformity of manufacture when those are in the interest of safety or proper and effective use.

The Committee recognizes that the state of the art in the medical devices field is rapidly changing and continually improving and has therefore provided that the Secretary shall undertake a periodic evaluation of the adequacy of all performance standards to be sure that they reflect changes in technology or medical science.

The Committee believes that maximum use should be made of standards that have already been developed by other Federal agencies and other nationally recognized standard-setting agencies or organizations. The Committee believes that the Secretary should review existing standards and should determine their applicability to meeting the requirements of this section.

The Committee has provided for procedural safeguards in the standard-setting process. There is time to comment upon the published notice of the need to develop a standard. If after reviewing those comments the Secretary publishes findings which are not responsive to the comments, a mechanism is provided for an appeal of the Secretary's findings to the Court of Appeals and eventually to the Supreme Court. There is further review once a standard has been developed and the Secretary has issued a proposal to promulgate a standard. At that point interested parties may comment upon the proposal or can request referral of the proposal to an independent scientific advisory committee for review. There is further recourse in terms of appealing the order establishing the standard to the Court of Appeals and, if necessary, to the Supreme Court. The Committee believes that the availability of these safeguards will protect and balance the rights of the different interests involved in the regulation of medical devices.

The Committee believes that the development of standards requires the application of sophisticated knowledge. It is recognized that a considerable amount of expertise in this area exists outside the Government. The Committee wanted to use this expertise and yet at the same time guard against a potential conflict of interest which might result if a standard were developed by a party having a proprietary interest in the nature of that standard. Therefore, the Committee-reported bill provides that when more than one offer to develop a standard is received, and where each offer is technically competent, the Secretary shall give priority to offerors who have no proprietary interest in the device for which the standard is to be developed. The commitee believes that, when nongovernmental groups (offerors) offer to develop standards for the Secretary's consideration, members of such groups should be required to disclose certain information in order to minimize the potential for conflict of interest that might arise. Such information, as required by regulation, shall be made publicly available at such time as an offer is accepted by the Secretary, in order to aid in the assessment of a proposed standard. The language in the bill is derived from the guidelines used by the National Academy of Sciences in requiring disclosure by committee members "On Potential Sources of Bias." The Committee intends that the Secretary shall be guided by these guidelines, and by the Conflict of Interest provisions of Public Law 87-849 (18 U.S.C. 202(a), in drafting regulations under this section.)

The Committee has authorized the Secretary, under this Section, to impose individual lot-testing where it is necessary and where no more practical means to achieve consistency or reliability are available. The Committee's intent is not to thwart the use of this procedure, but rather to insure that it will not be required as a regular part of each and every standard. To the extent that safety, effectiveness and reliability can reasonably be achieved without imposing individual lot-testing, the Committee intends that the procedure not be used.

The Committee was impressed by testimony at the hearings to the effect that the skill of the user of the medical device has a direct and significant bearing on the safety and effectivness of that device. Therefore the Committee intends that the evaluation of the safety and efficacy of a device be done in relation to the skill of the person who is to utilize it. The Committee intends that if a device is safe only in the hands of eminently qualified specialists, that that device will be restricted to use by those specialists.

The Committee believes it necessary to specifically prohibit manufacturers from stockpiling devices from the date of promulgation of a performance standard and the effective date of such a standard. This is analogous to provisions of the Consumer Product Safety Act and is intended to prohibit manufacturers or distributors from building abnormal inventories of products which would not meet an appropriate standard.

The Committee wishes to make it clear that standards and premarket approval mechanisms are not mutually exclusive. A component of a device which is subject to premarket clearance may also be required to conform to an applicable standard. The basic intent of the legislation is to assure safe and effective devices and the Secretary is authorized to use all of the authorities contained in this Act in any combination deemed necessary to protect the public health and safety.

The Committee has specifically exempted all veterinary devices from the purview of this legislation.

The Committee is aware of the special relationship that each health practitioner has with his patients. It is also aware of the need to develop special customized devices to meet the particular needs of a given patient. It is also aware of the need for individual research on medical devices. Therefore the Committee exempts custom devices from the standard setting requirements and from premarket scientific review. This exemption shall apply only for devices ordered by physicians and the other health professionals designated by regulation, according to their own specifications. Those medical devices which are ordered for individual patients, to qualify for this exemption, may not be used as a course of conduct and may not be generally available through commercial channels to the professions. It is the intent of these provisions to allow physicians to order custom-made products but not to permit manufacturers to circumvent standards-setting and scientific review requirements by commercially exploiting these products. The phrase "devices not being used as course of conduct" does not prohibit a physician from ordering a custom instrument and using it in his practice on several patients. This exemption has been a cause of serious concern for the Committee, although it recognizes the need to exempt such devices so that innovation is not stifled and so that custom fitting or sizing would not be prohibited. It is not the intent of this exemption to allow for the development of customized "quack" devices or devices known to be unsafe or ineffective.

The Committee has approached the problem of "quack" or worthless devices in an additional way, by authorizing the ban of certain devices which present a risk of illness, inquiry, disability or deception and for

which feasible standards could not be established and premarket scientific review would not be adequate. This section is aimed primarily at quack, worthless or totally unproven devices, but the Committee envisions that there will be other instances in which the banning of devices would be the appropriate regulatory action to be pursued. The Committee has also included a provision to authorize the seizure of devices which are distributed wholly in intrastate commerce. This provision will be applicable to all devices and will assist enforcement by doing away with the cumbersome and time consuming task of establishing interstate shipment. This provision will be particularly useful against quack devices.

The Committee recognizes the rapidly changing nature of the devices field and therefore feels that provisions must be made to amend standards on the basis of improved technology or news scientific evidence. Such amendments should be made in an expedited fashion so that appropriate changes can be rapidly implemented. The purpose of this authority is to permit new or improved devices to be marketed without delay so that the public may have such beneficial devices available to them as soon as possible.

Section 514

This section provides for the premarket scientific review of medical devices. The Committee spent a great deal of time deciding upon the criteria to be used in determining whether or not a particular device should be subject to premarket scientific review. The Administration's bill would have restricted such review to devices used in "life threatening situations" among other preconditions for such review. The Committee believes that this approach would be too restrictive because many devices could cause serious illness or injury which are not necessarily used in life threatening situations. The Committee believes that the potential for harm inherent in a certain device may not be determined solely on the basis of its intended use. Therefore the Committee has provided that the Secretary may declare a device subject to premarket clearance if, after consultation with appropriate panels, such review is found appropriate to insure safety and effectiveness or to reduce or eliminate unreasonable risk of illness or injury. The Committee intends that devices which are considered to be "life supporting or life sustaining" shall be subject to premarket scientific review. In addition, the Committee believes that the Secretary should have the authority to declare a device subject to scientific review whenever the Secretary feels that such a classification would be appropriate to protect the public health and safety. This authority would enable the Secretary to require premarket review even if the classification panels had not recommended such review. Additionally, the Committee has provided that premarket scientific review should be imposed only when there is no more practical means available to reduce or eliminate such risk of illness or injury. However, the Committee wishes to make clear that this latter criteria should not be viewed in the absolute. It is not intended to impose upon the Secretary that he establish beyond any doubt that there is no other means available to accomplish the goals of safety and effectiveness. Rather, he must reasonably find that other readily available means do not offer the same assurance of success or probability of success as premarket review does.

In the course of its deliberations the Committee was guided by the decisions that have been made by the classification panel on the review of cardiovascular devices already in existence. In particular the minutes of the panel meeting on October 9, 1973 said:

"The panel also reviewed the classification results for all of the cardiovascular devices. It was pointed out that since the scientific review or premarket clearance process may be the only method available to the panel by which it may request and analyze data pertinent to a device's safety and efficacy, that several different types of devices may show up in this proposed regulatory category. Obviously those devices which are life supporting, life sustaining or potentially hazardous to health, and which at the same time are in a stage of rapid development need premarket clearance in order to insure their safety and efficacy. Other devices which are also potentially hazardous to health or life supporting or life sustaining may also be placed in the scientific review category even though their widespread clinical use may generally be considered safe and effective. It is not expected that this latter group of devices would require the same type of review as the first group of devices mentioned. However, under proposed legislation, placing them in scientific review would give the Secretary and the advisory panel the opportunity to request and analyze the safety and efficacy data when this appears necessary in order to protect the public health.

"Pacemakers and artificial heart valves are examples of life supporting devices which are in a stage of development which is rapidly changing and which would require scientific review. Monitoring devices used in an intensive care unit and a number of devices used to diagnose cardiac function are examples of the latter group of scientific review devices discussed in the paragraph above."

The Committee understands that the decision to require premarket clearance is one of the most crucial decisions to be made under this Act. It has therefore constructed appropriate appeal mechanisms into the legislation. Once a regulation has been published declaring that a device shall be subject to scientific review, a mechanism is provided whereby that decision may be appealed to the Court of Appeals and eventually the Supreme Court.

The Committee believes that the scientific review process must be one that is characterized by the highest standards of scientific excellence. In order to avoid a proliferation of scientific panels under this Section, the Committee has decided that the panels used for classification shall, to the extent possible, be utilized during the process of premarket scientific review. These panels will be subject to the Federal Advisory Committee Act.

The Committee has built further appeals mechanisms into the scientific review process. Once an application for scientific review has been submitted and reviewed under this Section, the applicant may appeal a negative decision by requesting that his application be referred to an independent advisory committee (in lieu of a hearing). If the independent advisory committee concurs in the decision to deny the applicant's proposal or if the Secretary does not concur in the committee's recommendation to permit marketing, the applicant may seek review by the Court of Appeals and eventually appeal to the Supreme Court.

The Committee recognizes the necessity to encourage scientific investigation in the medical devices field and has attempted to provide optimum freedom for individual scientific investigators in their pursuit of that objective. The Committee has therefore provided an exemption to qualified scientific investigators from the requirements of this Section during the time of the investigational use of devices in order that they may collect sufficient data to establish that the device should be on the market. The Secretary may, by regulation, (after an opportunity for an informal hearing), establish procedures governing this exemption in addition to those set out in the legislation. The Committee has provided in the reported bill that the Secretary shall have thirty days after the receipt of a submission under this Section to determine whether or not the investigation is appropriate. The Secretary may not delay the beginning of an investigation beyond thirty days unless he finds that the investigation does not or will not conform to this Section or to the regulations issued thereunder and has notified the sponsor of such findings. The Committee has also specifically defined the meaning of informed consent which must be obtained in all but exceptional cases from any individual being used in investigations under ths Secton.

The Committee was impressed by the argument presented by the devices industry of the need to establish a mechanism for the approval of devices subject to rapid obsolescence or frequent modification. Therefore, the Committe has established in the reported bill the product development protocol mechanism for such devices. The decision on whether or not this provision should be used in a particular case rests solely with the Secretary and in his discretion. The Committee wishes to make it clear that only an informal hearing shall be provided for a revocation of a product development protocol before the Secretary has approved a notice of completion. However, once a notice of completion is approved, the applicant shall have the same administrative rights as the holder of an approval under scientific review.

Section 515

The Committee has been guided in the development of this Section by the provisions of the Federal Hazardous Substances Act and the Consumer Product Safety Act. The Committee believes that producers, assemblers, distributors and importers of devices should immediately notify the Secretary of any defect which could create a substantial risk to the public health or safety or fails to comply with the established standards. The Committee wants to make it clear that information or statements exclusively derived from the notification required by this Section cannot be used as evidence in any proceeding brought against a natural person pursuant to section 303 of the Federal Food, Drug and Cosmetic Act with respect to a violation of law occurring prior to or concurrently with a notification. The Committee feels that the Secretary should have considerable discretion in determining whether or not users of devices must be notified of defects in any given case. The Committee believes, however, that notice of defective devices should go to the general public unless the Secretary determines that such notification would endanger the public health or is unwarranted because of the insignificant nature of the deviation from the standard.

Section 501

The Committee has amended Section 501 of the Federal Food, Drug and Cosmetic Act to authorize the Secretary to issue substantive current good manufacturing practice regulations which will be applicable to medical devices and establishments manufacturing, processing or handling medical devices. The Committee believes that both industry and consumers will have a vital interest in these regulations and that each should have a full opportunity to participate in the development of such regulations.

Section 502

The Committee believes that the Secretary of Health, Education, and Welfare should have authority to regulate prescription medical device advertising. Therefore, the Committee has provided that the Federal Trade Commission Act (15 U.S.C. 52–57) will not be applicable to the advertising of prescription medical devices. The Committee believes that the Secretary of HEW in administering this new law will develop significantly more expertise in the area of medical devices than the Federal Trade Commission and that therefore the regulation of prescription device advertising is more properly vested in the agency most knowledgeable about the

area and the one that is truly charged with matters affecting public health and thus assuring the safety and efficacy of medical devices.

Section 709

The Committee recognizes that the medical device field is a rapidly expanding industry. The Committee feels that the Secretary should be authorized to provide for (either directly or through contracts) new research and investigation into the safety and effectiveness of devices and the causes and prevention of injuries or other health impairments associated with exposure to or use of such devices. In addition, research should be carried out to lead to the development and improvement of device performance standards. The Committee recognizes that a device is only as good as the expert who uses it and therefore authorizes the Secretary to conduct programs for the education and training of individuals with respect to proper installation and use of devices.

Section 201

The Committee recognizes that there is confusion at the present time about whether certain articles are to be treated as devices or drugs under the Food, Drug and Cosmetic Act. Therefore, the Committee reported bill has carefully defined "device" so as to specifically include implants, in vitro diagnostic products and other similar or related articles. In vitro diagnostic products include those products which are not ingested and which are used to assist in the diagnosis of disease or other conditions of the body.

Section 801

The Committee reported bill has amended Section 801 of the Food, Drug and Cosmetic Act, which relates to the exportation of devices. The Committee does not believe that substandard or unsafe or ineffective devices should be permitted to be exported to foreign nations and has thus provided in its bill that the Secretary may deny export of any devices which do not fully conform to the provisions of this Act. The Committee has, however, found that in many instances, articles subject to the Federal Food, Drug and Cosmetic Act which may not meet domestic standards for one reason or another might properly and significantly benefit foreign nations. The Committee has therefore provided in this section of the bill that such articles may be exported to foreign countries which the Secretary finds that the noncompliance is not of such a nature as to expose the populations of foreign nations to undue risks of the public health and provided that the foreign nation specifically approves of such an export.

General

The Committee wishes to take specific note of the testimony of a number of witnesses, both within and without the industry who expressed concern about the impact of this legislation on the small manufacturer of medical devices. The concern stemmed from the importance of the small innovative manufacturer in the invention and development of new medical devices and the inability of these firms, because of limited financial resources, to sustain the high level of administrative costs demanded of a highly regulated industry. The Committee believes that these concerns are legitimate, as long as they are concerns for the preservation of small business consistent with the public's need for safe and effective medical devices. The Committee is confident that the administration of this new law will also take into account the need to preserve the small manufacture's role in the device industry.

IV. Tabulation of Votes Cast in Committee

Pursuant to section 133(b) of the Legislative Reorganization Act of 1949, as amended, the following is a tabulation of votes in Committee:

There were no rollcall votes cast in the Committee.

1. A Kennedy amendment making technical and conforming changes carried unanimously by voice vote.

2. A Dominick amendment excluding veterinary devices from the jurisdiction of the legislation carried unanimously by voice vote.

3. Several Nelsen amendments with regard to premarket clearance and standard setting were adopted unanimously by voice vote.

4. The motion to favorably report the bill carried unanimously by voice vote.

V. Cost Estimates Pursuant to Section 252 of the Legislative Reorganization Act of 1970

In accordance with Section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress) the Committee estimates that the cost which would be incurred in carrying out this bill is as follows:

No new funds are authorized by this legislation. The administration estimated that supplemental funds in the amount of $14 million would be requested in order to carry out the provisions of this act.

VI. Section-by-Section Analysis of S. 2368

Section 1. Short title "Medical Device Amendments of 1973."

TITLE I—PRELIMINARY CLASSIFICATION OF MEDICAL DEVICES

Section 101. Amends chapter V of the Federal Food, Drug, and Cosmetic Act to add a new section 511 as follows:

Section 511. (a) Requires Secretary, within 60 days following first appropriation of funds for this purpose, to appoint panels of scientific experts to review and classify devices into appropriate categories based on safety and effectiveness. Panels are required to submit their findings to the Secretary within one year of their appointment. To the maximum extent practical, panels are to provide opportunities for any interested persons to present their views on device classifications. Authorizes use of any existing expert panels formed prior to enactment of this Act for purposes of classification. Classification panels shall also serve as scientific review panels referred to in a later section of the bill.

(b)(1) Members are to be skilled in use of or experienced in development, manufacture, perfection or utilization of devices. In addition to such experts, panels shall include as nonvoting members, representatives of consumer and industry interests. Panel members may be nominated by appropriate scientific, trade, and consumer organizations.

(2) Members are to have adequately diversified expertise in such fields as clinical and administrative medicine, engineering, biological and physical sciences or relating professions. The Secretary shall designate one member of each panel as Chairman. Sets methods of compensation for members.

(c) Panels are required to submit recommendations for the classification of devices into one of the three following categories, and to the extent practicable, assign priorities within such classes:

(1) Devices subject to premarket scientific review—Those devices for which insufficient information exists to (A) assure effectiveness or assume that the device will not cause unreasonable risk of illness or injury and (B) standards or other means may not be appropriate to eliminate such risk. Premarket scientific review shall be required for any such device if the panels determine the device is life sustaining or life supporting.

(2) Devices subject to standards—those devices for which standards are appropriate to eliminate unreasonable risk and for which other means may not be appropriate.

(3) Exempt devices—Those devices which are safe and effective when used in accord with directions (which are adequate for intended users) and which present minimum risk.

(d) Requires Secretary to publish report on device classification scheme in the Federal Register and to allow for comment by interested persons. After reviewing comments, Secretary is required to provide by regulation for preliminary classification of devices. Allows Secretary to establish priorities for implementing regulatory action warranted by such classification and to defer such action until an appropriate time consistent with expeditious implementation of the provisions.

(e) Permits Secretary to reclassify devices upon a specific finding and with advice of the appropriate panel.

Such findings shall be published in the *Federal Register* and interested persons shall have an opportunity to comment thereon.

TITLE II—AUTHORITY TO ESTABLISH PERFORMANCE STANDARDS

Sec. 513. (a)(1) Authorizes Secretary to issue a performance standard (including uniformity and compatibility with systems or environments) for any device for which a standard has been deemed appropriate, whenever such action is appropriate to reduce or eliminate unreasonable risk of illness or injury and when other means of reducing such risks may not be appropriate.

Standard is to relate to safety, effectiveness over time, including where appropriate, reference to any one or more of the following: Composition, construction, properties, uniform identification, or performance of such device.

Standard may also include: Provision for testing and measurement of characteristics, including where necessary, individual lot testing by or at direction of the Secretary.

Secretary may require the use of and prescribe the form and content of instructions or warnings for proper installation, maintenance, operation and use of device.

(2) A performance standard may require device (or components) to be marked, tagged or accompanied by adequate warning and instruction for protection of health or safety.

(3) Secretary shall provide for periodic review of standards to be sure they keep pace with changes in the state of the art.

(4) When devices are intended for use by surgeons or other specially qualified persons, their safety and effectiveness shall be determined in the context of such intended use.

(b)(1) Prior to and during development of proposals for performance standards, Secretary would be required to consult with and consider relevant standards published by other Federal agencies of nationally or internationally recognized standard-setting agencies or organizations. Secretary may invite participation through conferences or other means of informed persons representative of scientific, professional, industry, or consumer organizations.

(2) In carrying out his duties under this section, the Secretary to the maximum practicable extent shall utilize the personnel, facilities and technical support available in other Federal agencies.

(c)(1) Requires Secretary to publish in the *Federal Register* a notice that proceedings are being initiated to promulgate a device performance standard. The notification shall contain:

(A) Description of device, or type or class of device, to which proceeding to promulgate a standard relates.

(B) Nature of risk to be controlled.

(C) Summary of data on which need for initiation of proceeding is based.

(D) Identification of any existing standard which may be relevant.

(E) Invitation to any person or Federal

agency to submit a proposed standard within 60 days of notice or to offer to develop a proposed standard in accordance with prescribed procedures.

(2) Prior to an order to promulgate a performance standard the Secretary shall consider:

(A) The degree of risk of harm associated with the device.

(B) Approximate number of devices subject to the order.

(C) The device's benefit to public and probable effect standard will have on utility, cost or availability of the device.

(D) Means of achieving objectives with minimum market disruption.

(E) Data and comments submitted.

(3) Findings required by paragraph (2) above shall be published in *Federal Register*. Such findings shall be made only after review of the report of the appropriate panel and the preliminary classification of the device. The findings may be appealed to the Courts within 30 days after their publication.

(d) In lieu of accepting an offer to develop a standard, Secretary could publish as a proposed device standard an existing standard published by any Federal agency or other qualified agency if reference to such standard was made in the initial notice in *Federal Register* and if such standard were substantially acceptable.

(e) (1) Except as otherwise provided, directs Secretary to accept one or more offers to develop a proposed performance standard. In accepting such offers, Secretary would determine whether offeror is technically competent to undertake and complete development of standard within the period of time specified in the invitation and whether offeror has capacity to comply with prescribed regulations governing development of proposed standards. Where more than one offer is received the Secretary, wherever possible, will give priority to offerors with no proprietary interest in the device to be subject to the standard. The Secretary shall by regulation require that each offeror (and appropriate officials of an offeror company) disclose:

(A) All current industrial or commercial affiliations.

(B) Sources of research support.

(C) Companies in which offeror has a financial interest.

(2) The Secretary shall publish the name and address of offeror(s) accepted and terms of offer as accepted.

(3) Secretary could agree to contribute to offeror's cost in developing a standard if Secretary determines such contribution would likely result in a more satisfactory standard and that offeror is financially responsible. Regulations would set forth acceptable items of cost, except that such items could not include construction (except minor remodeling) or acquisition of land or building.

(4) Directs Secretary to prescribe regulations governing development of proposed standards, so as to require that:

(A) Recommended standards be supported by test data or other documents as Secretary may require;

(B) Recommended standards contain testing methods appropriate for measurement of compliance with standard;

(C) Interested persons be afforded an opportunity to participate in development of standard;

(D) Records be maintained to disclose the course of the development of the standard;

(E) Secretary and Comptroller General shall have access to offeror's records, documents, etc. for purposes of audit regarding any contribution.

(f) If no person accepted invitation to develop a proposed standard, or the Secretary did not accept a proposed standard, or the Secretary accepted an offer but found that offeror was unwilling or unable to continue development of standard, Secretary could then develop a proposed standard according to procedures and regulations governing such development.

(g) (1) (A) Within one year after period for submitting a proposed performance standard or offer to develop standard (which time may be extended for cause), the Secretary shall either publish a proposal to promulgate a standard or terminate the procedure. A proposal to promulgate a standard shall set forth the standard and the manner in which persons may examine the background data and the manner in which they may present comments thereon (orally or in writing). The period for comment shall be at least 60 days but not more than 90 days (except for cause).

(B) Within 90 days after such period for comment expires the Secretary shall publish an order establishing a performance standard or terminate the proceeding. The order shall include the Secretary's reasoning for the standard and the date(s) it will be effective. Effective dates shall, consistent with public health protection, be established so as to minimize market disruption. If the standard in the order is substantially different from the proposal, 30 days for comment shall be permitted.

(C) The Secretary may, in such order, include findings in addition to those required.

(2) Secretary may revoke a standard by notice in the *Federal Register* stating his reasons for determining that the performance standard (or portion thereof) may no longer be in the public interest, the manner in which persons may examine underlying data and how they may present their views (orally or in writing). As soon as practical thereafter the Secretary shall act on such proposed revocation, publish his reasons therefor, and set the effective date(s).

(3) Secretary may on his own or on petition amend a performance standard which shall be published in the *Federal Register* and subject to 5 U.S.C. 553, judicial appeal and referral to an advisory committee.

(4) 5 U.S.C. 553 (regarding administrative procedure) shall, consistent with this section, apply to all proceedings to promulgate, amend or revoke a performance standard.

(5) (A) In the case of controversy concerning an order to promulgate, amend, revoke or ban, adversely affected person may (within 30 days) petition an appropriate United States Court of Appeals. A copy of the petition shall be transmitted to the Secretary by the Court, whereupon the Secretary shall file with the Court the record upon which the order is based.

(B) Petitioner may apply for leave to adduce additional evidence which shall be granted upon a satisfactory showing of the need and appropriateness of additional evidence. The Secretary, based on such additional evidence, may modify or set aside his original order.

(C) The Court shall have jurisdiction to affirm or set aside (in whole or in part) the order, temporarily or permanently. If the order of the Secretary refuses to issue, amend or repeal a regulation and such order is not in accordance with law the Court may order the Secretary to take action in accordance with law. The findings of the Secretary, if supported by substantial evidence, shall be conclusive.

(D) Appeal to the Supreme Court.

(E) Such action shall survive notwithstanding changes of vacancies in the Office of the Secretary.

(F) A certified copy of the record of proceedings before the Secretary shall be furnished at cost to interested persons and shall be admissible in any criminal libel for condemnation (except imports) or other proceeding arising under this Act notwithstanding proceedings with respect to the order which may have been previously instituted or become final under this section.

(6) The Secretary may by regulation prohibit the stockpiling of nonconforming devices between date of promulgating the order and the effective date.

(h) (1) Authorizes Secretary to appoint independent advisory committees to which could be referred any matters involved in a proposed device standard which requires the exercise of scientific judgment, prior to or after its publication in the *Federal Register*. Secretary could refer such proposals on his own initiative, and would be directed to refer such proposals when requested by any interested persons showing good cause.

For the purpose of such referral the Secretary shall establish an advisory committee (which may be a standing advisory scientific review panel) and shall refer to it, together with all underlying data, the matter in question for a report and recommendation. After independent study, the committee shall certify a report and recommendations to the Secretary together with all its underlying data and reasons for its recommendations. After considering all data before him including the Committee's report, the Secretary shall by order affirm or modify or act on the order in question.

(2) Secretary shall appoint qualified persons as members of the advisory committee. Such persons shall be of appropriate diversified professional background. Members (other than regular Government employees) may receive compensation (not to exceed GS–18 rate) and travel and per diem allowances.

(i) (1) Manufacturers of devices subject to standards would have to assure the Secretary that such devices comply with any testing methods prescribed in the standard or that device has been manufactured in accordance with current good manufacturing practice designed to assure such compliance.

(2) To assure that devices are in conformance with standards, Secretary is directed to review and evaluate on a continuing basis the testing and quality control programs carried out by manufacturers of devices subject to standards.

(j) Exempts from compliance with otherwise applicable standard any device: Intended solely for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals or to affect structure or function of animals; declared subject to scientific review, except for those characteristics of a device made subject to an existing standard under an application approved through scientific review, or a particular device which the Secretary finds pursuant to regulations (issued after opportunity for a hearing) may notwithstanding an applicable standard be marketed pursuant to premarket scientific review approval.

(k) Directs Secretary to issue regulations permitting interstate shipment of devices varying from an applicable standard for the purpose of testing or investigation, prior to amendment of the standard.

(l) Exempts custom made devices ordered by a physician (or other specially qualified person as authorized by regulations of the Secretary) for individual patients.

(m) (1) After consultant with the appropriate panel and after affording interested persons an opportunity for an informal hearing Secretary may, by regulation, ban a device if he finds the device presents an unreasonable risk of harm or deception and that performance standards or premarket approval would not adequately protect the public.

(2) Secretary may declare a proposed regulation banning a device on an interim basis pending administration and judicial appeals if (after opportunity for informed hearing) he finds such banning will expedi-

tiously reduce risk of harm to public or gross deception.

(n) Secretary may amend performance standard on an interim basis, pending completion of standard setting procedure, if he determines (after opportunity for informal hearing) that amendment is needed to permit rapid implementation of desirable changes or expeditiously reduce risk of harm but thereby shall not prohibit devices conforming to existing standards.

SEC. 202. (a) A device is adulterated unless it conforms to an applicable standard or if it is a banned device.

(b) A device is misbranded unless its labeling bears warning, etc. required by standard or if it fails to comply with the quality testing or measurement required under section 513(i).

TITLE III—SCIENTIFIC REVIEW OF CERTAIN MEDICAL DEVICES

SEC. 301. (a) A device is adulterated if it is unsafe under section 513 (scientific review).

(b) Amends Chapter V of Federal, Food, Drug, and Cosmetic Act by adding a new section 514 as follows:

SEC. 514. (a) Secretary may declare a device, for which scientific review has been deemed appropriate according to the device classification scheme, subject to such review, if after consulting with appropriate scientific review panels he finds that: Scientific review is appropriate to ensure safety and effectiveness or is appropriate to reduce or eliminate unreasonable risk of illness or injury associated with exposure to or use of a device or if he determines that scientific review is appropriate to protect public health and other means may not be appropriate to reduce the risk of harm. To the maximum extent practicable, the Secretary shall provide interested persons an opportunity to submit data and views on the matter. The declaration shall be by regulation and shall set forth and be based on the report, recommendations and comments developed as part of the classification scheme. Promulgation of a regulation declaring a device subject to scientific review may be appealed to appropriate Court of Appeals. A device declared subject to scientific review shall be deemed unsafe unless—

1. An approval is in effect,

2. It is exempt, or

3. It is intended solely for veterinary use.

(b) Secretary shall utilize the standing advisory panels for review applications, plans and protocols under this section.

(c)(1) Scientific review of a device declared subject to such review may be obtained by submitting to the Secretary an application containing the following:

(A) Reports of all information concerning investigations to determine safety, reliability, or effectiveness of devices which are known or reasonably should be known to the applicant.

(B) Statement of composition, properties, construction, and principles of operation of device.

(C) Description of methods used in, and facilities and controls used for, manufacture, processing, and when relevant, packing and installation of device.

(D) Identification of any standard applicable to such device, or its component, and adequate information either to show device meets such standard or to justify any deviation.

(E) Samples of device and its components.

(F) Specimens of proposed labeling.

(G) Any other relevant information as Secretary upon advice of the appropriate panel may require.

(2) Directs the Secretary to refer application, upon receipt, to appropriate panel(s) for report and recommendations within such period as he may establish.

(d) No later than 120 days after receipt of application, unless additional period agreed upon by Secretary and applicant. Secretary is required, after considering panel's recommendations, either to approve application, advise applicant that application is not in appropriate form and inform applicant of measures required to receive approval, or deny approval if device fails to meet criteria set forth below.

(e)(1) Secretary shall deny application, if on basis of information submitted or other information before him and after opportunity for review by an advisory committee he finds:

(A) Device is not shown to be safe for use under conditions prescribed, recommended, or suggested in proposed labeling;

(B) The method used in, and facilities and controls used for, manufacture, processing, packing, and installation do not conform to current good manufacturing practices;

(C) There is a lack of adequate scientific evidence to show device will have effect it purports or is represented to have under conditions on the label;

(D) The labeling itself is false or misleading.

(E) The device is not shown to conform with an applicable standard.

In making such determination Secretary shall weigh the benefit to the public from the use of the device against any hazard to the public health which would probably result from its use.

(2) "Adequate scientific evidence" is defined as evidence consisting of sufficient well-controlled investigations, including clinical investigations where appropriate, by qualified scientific experts, on the basis of which it could fairly and responsibly be concluded that device will have effect it purports or is represented to have under conditions prescribed in its proposed labeling. However, Secretary may determine that other valid scientific evidence is sufficient to establish effectiveness of device.

(3) The safety and effectiveness of devices intended for use by physicians, surgeons or other specially qualified persons shall be determined in light of such intended use.

(4)(A) Applicant may, within 30 days of denial of application, obtain review by an independent scientific advisory committee and Secretary shall give its report appropriate weight in reviewing the application.

(B) In lieu of review by independent advisory committee, applicant may receive review pursuant to 5 U.S.C. 554 (relating to administrative procedures).

(f)(1) Secretary may, after obtaining advice from a panel(s) if appropriate, and after giving due notice and opportunity for hearing to the applicant, withdraw approval if he finds:

(A)(i) Clinical or other experience or tests show device to be no longer safe, for use under conditions previously approved;

(ii) Evidence of clinical experience, not contained in original application or not available until after application was approved, or tests by new methods or methods not reasonably applicable at time application was approved show device to be no longer safe;

(B) New information, evaluated together with evidence on which application was originally approved, shows lack of adequate scientific evidence that device will have effect it purports;

(C) Original application contains untrue statement of material fact;

(D) Applicant fails to establish system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or make required reports, or has refused to permit access to such records;

(E) New information, together with evidence in original application, show methods used in, or facilities or controls used for, not in conformance with good manufacturing practice, and were not brought into conformance within reasonable time after formal notification;

(F) New information shows labeling is false or misleading and not corrected within a reasonable time; or

(G) New information shows device to be in non-compliance with an applicable standard.

(2) Secretary may immediately suspend approval if he finds an imminent health or safety hazard is involved. Applicant is to be notified promptly and given opportunity for expedited hearing. This authority may not be delegated.

(3) An order under this section shall state the findings upon which it is based.

(g) Whenever Secretary finds that facts so require, he shall revoke any previous orders denying, withdrawing or suspending approval of application and shall approve or reinstate such approval of an application.

(h) Order of the Secretary may be served by a designee or by registered or certified mail to applicant's last known address in Secretary's records.

(i)(1) An applicant may petition Secretary to obtain review of application of Secretary's action by an independent advisory committee of experts. Secretary may also refer an application to such a committee on his own initiative. Committee shall after independent study certify a report and recommendations to Secretary (a copy of which shall be sent to applicant or petitioner). Applicant and representatives of the Department would have the right to consult with the committee. Secretary is to consider findings of the independent committee and thereupon may conform or modify any prior order.

(2) Provision for establishing independent advisory committee in standards section (Sec. 513(h) shall apply here.

(3) Paragraph (3) of Sec. 513(h) shall apply in case of referral to advisory committee under this section.

(j) Judicial review to Court of Appeals is provided with respect to final orders denying or withdrawing approval.

(k)(1) Declaration that purpose of this subsection is to encourage discovery and development of useful devices and maintain optimum freedom for individual scientific investigators, consistent with protection of public health and safety and with professional ethics. Information required to be submitted shall be concise and no more burdensome than necessary.

(2) Devices intended solely for investigational use (in an appropriate scientific environment) by qualified experts are exempt from scientific review.

(3) Secretary shall promulgate regulations (after opportunity for a hearing) relating to the application of such exemption to any device intended for clinical testing in humans in developing data to support an application.

(4) Such regulations may condition such exemption upon:

(A) Submission of outline of plan of initial clinical testing to either a local institutional review committee established to supervise clinical testing in the facility where initial testing is to occur, or to the Secretary for review by appropriate standing scientific review panel.

(B) Prompt notification to Secretary of approval of plan by review panel.

(C) Submission to either a local institutional review committee or the Secretary of an adequate protocol for clinical testing to be conducted by separate groups of investigators under essentially same protocol, together with report of prior investigations of device, including tests on animals, adequate to justify the proposed testing.

(D) Obtaining of signed agreements from investigators that humans upon whim device to be used will be under their personal supervision.

(E) Establishment and maintenance of records, and making of such reports obtained

from investigational use of device, as Secretary finds will enable him to evaluate safety and effectiveness of device.

(F) Other conditions relating to protection of public health and safety as Secretary may deem necessary.

Nothing in this subsection shall be construed to require investigators to submit directly to the Secretary reports on investigations. Secretary shall determine if investigation conforms to this section within 30 days of a submission or notification under this section, and the investigation shall not begin until sponsor receives notice from Secretary that investigation conforms to this section *provided* Secretary may delay beginning of investigation unless he so finds and notifies sponsor of such finding(s). Secretary may exempt investigation from all or part of this subsection in the public interest.

(5) Regulations must assure that—

Rights and welfare of subjects are adequately protected;

Risks are outweighed by potential benefits or importance of knowledge to be obtained; and

Informed consent of participants is to be obtained by adequate methods in all but exceptional cases.

(A) The term "informed consent" means consent of a person, or his legal representative, so situated as to be able to exercise free power of choice without intervention of any element of force, fraud, deceit, duress, etc. Such consent shall be evidenced by an agreement signed by such person or his legal representative. Such agreement shall include:

(1) Explanation of procedures, including any of an experimental nature;

(2) Description of any discomforts and risks which can be reasonably expected;

(3) Fair explanation of likely results if experiment fails;

(4) Description of reasonably expected benefits;

(5) Disclosure of alternative procedures potentially advantageous for the subject;

(6) Offer to answer any inquiries concerning procedures; and

(7) Instruction to subject regarding his freedom to discontinue participation at any time.

Constant agreement must contain no language through which subject waives any legal rights or releases the institution or its agents from liability for negligence. Requires that permanent record be kept of such consent.

(B) "Exceptional cases" to be construed strictly, permits waiver of only those elements of consent in subparagraph (A), 1–7, as justified by circumstances, and requires written concurrence by two physicians not involved in the research unless there is a life-threatening situation and such concurrence is not feasible.

(6) Whenever Secretary finds device being investigated on humans which fails to meet conditions for exemption he shall notify such sponsor of his determination, and reason therefor and the exemption shall not apply until failure to comply is corrected.

(7) In determining applicability of this subsection to any device and/or its compliance therewith, Secretary may obtain advice of experts not employed in carrying out this Act (except as consultants).

(l) Exempts custom devices ordered by physician (or other specially qualified persons as determined in regulations) for individual patients.

(m)(1) A device intended for use by a practitioner which is subject to frequent modifications, rapid obsolescence or which will not be produced in substantial volume may be exempted from scientific review if it is to be developed in accord with a product development protocol.

(2) Any person may petition Secretary to establish a product development protocol for such a device. Secretary may, within 30 days, refer petition to an expert panel, which may, within 60 days or such other times as agreed upon by panel and petitioner, approve an appropriate protocol. If approved, protocol must stipulate:

(A) Investigational procedures required prior to clinical trials on device;

(B) That institutional review committee make written finding of risk-to-benefit ratio and continually monitor and report on clinical trials;

(C) Type and quantity of clinical trials required prior to filing notice of completion of protocol;

(D) Maintenance of records to show compliance with protocol;

(E) Informed consent from all human subjects; and

(F) That copies of all required records be available to Secretary upon his request.

(3) If panel does not approve a protocol within 60 days, Secretary may consider and approve protocol (with or without modification) within next 60 days. If neither panel nor Secretary approves a protocol, a final order will be issued denying petition and stating reasons.

(4) After approval of protocol, petitioner may submit notice of completion of the requirements of protocol, indicating that to the best of his knowledge, no reasons exist relating to safety, effectiveness, or other public health considerations why device should not be marketed. The Secretary shall approve or disapprove such notice within 90 days.

(5) Secretary may at any time prior to approving a product development protocol and after providing petitioner with opportunity for informal hearing, revoke a protocol or object to notice of completion, if he finds in writing:

(A) Petitioner failed to comply with protocol requirements; or

(B) Results of clinical trials differ so substantially from results required in protocol that further trials are unjustifiable; or

(C) Device is not safe for use under conditions prescribed in labeling; or

(D) A lack of adequate scientific evidence showing device to have effect it purports to have on label.

(6) Allows Secretary to immediately revoke an exemption pertaining to a device subject to a product development protocol, if an imminent hazard to public health or safety is caused by existence of such exemption.

(7) Secretary may also revoke an exemption, after a notice of completion of protocol requirements has become effective, if he finds that any grounds listed in subsection referring to withdrawal of approval of application under scientific review apply.

(8) Secretary may reconsider an order revoking an exemption under this section and reinstate such exemption.

(n)(1) Devices in use the day before such device is declared subject to scientific review, will be considered adulterated (unless approved) on the closing date or, if sooner, with respect to an applicant the date his application is approved.

(2) Defines "closing date" shall be 30 months after date device is declared subject to scientific review, except Secretary may extend period to sixty months but may terminate such extension if progress reports etc., and not supplied.

SEC. 302. (a) Makes it a prohibited act to fail to establish, maintain, or make a report under the investigation device section or the section requiring records and reports.

(b) Prohibits any representation that a device has been approved under section 514.

TITLE IV—NOTIFICATION OF DEFECTIVE DEVICES; REPAIR OR REPLACEMENT

SEC. 401. Amends Federal Food, Drug, and Cosmetic Act by adding new section 515 as follows:

SEC. 515. (a)(1) Every person acquiring information which reasonably supports the conclusion that a device produced, assembled, distributed, or imported by him to contain a defect which could create a substantial risk to the public health or safety, or to be in noncompliance with an applicable standard would be required to notify the Secretary of such defect or failure if device has left control of the manufacturer. Information received under this section (except for required records) shall not be used in prosecuting natural persons under the Federal Food, Drug, and Cosmetic Act.

(2) Notification shall contain a clear description of the defect evaluation of the hazards and measures being taken to correct defect and protection against the hazard.

(3) The term "defect" as it relates to a device means a deficiency in design, materials, or workmanship, and does *not include* any deficiency resulting from use of improper accessories, improper installation, maintenance, repair, or use of device, or deficiency resulting from normal use of device after expiration of lifetime represented by manufacturer.

(b)(1) If Secretary determines device presents substantial hazard, he may make certain adequate notification is made by most appropriate persons and means to all persons including manufacturers, distributors, health professionals, and users.

(2) If Secretary determines users need not be notified he will notify health professionals who may comment on advisability of notifying general public. Thirty days thereafter he will notify public if he determines notification will not endanger public health.

(3) If the Secretary determines after opportunity for a hearing that device presents substantial hazard he may order manufacturer or distributor or retailer to take following action at his election to extent purchasers (and), if appropriate his physician) consent is obtained. Those actions are (1) bring device into compliance (2) replace device, and (3) refund purchase price (less depreciation if over one year old) Secretary may require submission of plan for carrying out this requirement.

(d)(1) No charge will be made of persons availing themselves of this remedy and they shall be paid for expenses necessary to do so.

(2) The Secretary may require manufacturer, distributor, or retailer to reimburse another manufacturer, distributor, or retailer if in the public interest.

(3) An order requiring repair, replacement or refund may only be made after opportunity for an informal hearing. If interested person wishing to participate in hearing is one of a class that is represented, the Secretary may limit his participation to such representative.

(e) Remedies under this shall be in addition to and not in substitution for any other legal remedies.

SEC. 402. Failure to furnish notification or information under sections 515 or 516 or failure to comply with an order under section 515 are made prohibited acts.

SEC. 403. Conforming technical amendment.

TITLE V—REQUIREMENT OF GOOD MANUFACTURING PRACTICE

SEC. 501. Amends section 501 of Federal Food, Drug, and Cosmetic Act to provide that a device is adulterated if it is manufactured, processed, or installed in accord with current good manufacturing practice as determined by the Secretary's regulations issued under section 701(a) of the Federal Food, Drug, and Cosmetic Act.

TITLE VI—RECORDS AND REPORTS INSPECTION AND REGISTRATION OF ESTABLISHMENTS; OFFICIAL NAMES

SEC. 601. Amends Chapter V of the Federal Food, Drug, and Cosmetic Act by adding a new section 516 as follows:

SEC. 516. (a)(1) Requires persons manu-

facturing, processing, repacking, labeling, or distributing a device subject to a standard which is subject to an approved application for scientific review, to maintain records and make reports to the Secretary on clinical experience and other data relating to safety or effectiveness of such device, or possibility of adulteration or misbranding, etc. Regulations under this section are to have due regard for professional medical ethics and interests of patients.

(2) Persons required to maintain such records must allow employees of Secretary to have access to any copy and verify such records.

(b) Exempts from the requirement of records the following:

(1) Licensed practitioners who manufacture or process devices solely for use in their professional practice.

(2) Persons manufacturing or processing devices solely for use in research or teaching and not for sale.

(3) Other classes of persons as Secretary may exempt.

(c) Every person engaged in manufacturing devices shall on request furnish to the Secretary pertinent technical data.

SEC. 602. Provides that authorized inspection of establishments processing or holding prescription devices may extend to all things therein, including records, files, papers, processes, controls, facilities, etc. but not to financial, sales or pricing data or personnel (except for qualifications of technical and professional personnel). Such inspection is not authorized with respect to pharmacies, medical practitioners, researchers, and other persons exempted by Secretary.

SEC. 603. Each device establishment is required to register annually with the Secretary and submit a list of all devices processed therein (which list may be updated) and submit cerain labeling and advertising for such listed devices.

Requires device label to bear (in type at least half the size of type used for brand name) the established name of the device (unless exempted). Defines "established name" to mean name designated by Secretary, name of device as it appears in an official compendium or its common or usual name.

Provides that device establishments engaged solely in intrastate commerce are subject to registration as well as those engaged in interstate commerce.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Amends chapter VII of the Federal Food, Drug, and Cosmetic Act by adding new section 708 as follows:

SEC. 708. (a) Establishes Advisory Council on Devices to advise Secretary on policy matters relating to carrying out provisions of the Act. Members appointed by the Secretary are to be manufacturers, scientists, engineers, and members of the professions using such devices, as well as consumers and other persons knowledgeable about problems involved in device regulation.

(b) Secretary may, without regard to civil service and classification laws, appoint other advisory committees and council as he deems desirable.

(c) Sets methods of compensation of Council members.

SEC. 702. Amends chapter VII of the Federal Food, Drug, and Cosmetic Act to add a new section 709 as follows:

SEC. 709. (a) Authorizes Secretary to conduct, either directly or through contracts with public or private agencies, organizations or individuals, research, studies, and education and training in areas related to device safety, development of standards, testing methods, etc.

(b) Directs Secretary to cooperate with and invite participation by other Federal or State agencies and interest professional or industrial organizations; to collect and publish results of research and other activities. Authorizes Secretary to obtain devices for research and testing purposes.

SEC. 703. Amends section 505 of the Federal Food, Drug, and Cosmetic Act permit Secretary to disseminate information regarding device standards, testing facilities and methods, other information on nature and extent of device hazards.

SEC. 704. Amends chapter IX of the Federal Food, Drug, and Cosmetic Act; add new section 903 as follows:

SEC. 903. (a) Prohibits States from establishing or maintaining standards or regulations for any device which is specifically subject to an official Federal standard or scientific review; unless State requirements are identical to the Federal requirements.

(b) Specifically allows Federal, State, and local governments to establish safety requirements applicable to a device for their own use, if such requirements impose a higher performance standard than otherwise required by applicable Federal law.

(c) Allows Secretary to exempt a State proposed safety requirement from preceding provision if proposed requirement:

Imposes higher performance level than Federal standard;

Is required by compelling local conditions; *and*

Does not unduly burden interstate commerce.

SEC. 705. Amends section 301(j) of the Federal Food, Drug, and Cosmetic Act to provide that information on methods or processes which are trade secret received in submission under the Act shall not be disclosed outside the Department except that trade secret information may be given to contractors under appropriate security provisions for a use in furtherance of the purposes of the Act.

SEC. 706. Amends section 201 of the Federal Food, Drug, and Cosmetic Act to define "device" as follows:

The term "device" means instruments, apparatus, implements, machines, contrivances, implants, in vitro reagents, or similar articles, including their components, parts, and accessories which are:

(a) Recognized in the official U.S. Pharmacopeia or National Formulary, or any supplement to them; or

(b) Intended for use in diagnosis, treatment, or prevent of disease in man or other animals; and

(c) Intended to affect structure or any function of the body of man or other animals; and

(d) Which do not achieve any of their principal purposes through chemical action within or on the body of man or other animals and which are not dependent upon being metabolized for achievement of their principal purposes.

SEC. 707. Provides that a prescription device is misbranded if its advertising is false or misleading or unless the advertising contains the established name, full description of its components or qualitative formula; and a brief summary of side effects, contraindications, and effectiveness (as provided in Secretary's regulations). Prior approval of advertising shall not be required except in extraordinary circumstances. Prescription device advertisements shall not be subject to sections 12–17 of the Federal Trade Commission Act.

SEC. 708. Defines the term "prescription device" to mean any device so designated by the Secretary as being restricted to sale or distribution only upon written or oral authorization of licensed practitioner. A device shall not be designated as prescription unless because of its potential harm it is not safe for use except under supervision of licensed practitioner or unless it is limited to prescription sale pursuant to approval of an application for scientific review.

SEC. 709. Amends section 304 of the Federal Food, Drug, and Cosmetic Act to permit the seizure of adulterated or misbranded devices found in any State.

SEC. 710. Amends section 801 of the Federal Food, Drug, and Cosmetic Act to prohibit the exportation of noncomplying devices. The Secretary may permit export of articles not in compliance with the Federal Food, Drug, and Cosmetic Act if he determines that such export is in the interest of public health and has the approval of the country to which it is to be exported.

SEC. 711. (a) Except as provided in subsection (b) the Act will take effect on its enactment.

(b) Provision that device is adultered without approval becomes effective in one year or on date of approval of application with respect to certain uses of the device.

(c) Person owning device establishment prior to the enactment date shall have seven months to register such establishment. If such initial registration takes place in 1975 such establishment will be deemed registered for that year.

VII. CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by titles I through III of the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter printed in italic):

FEDERAL FOOD, DRUG, AND COSMETIC ACT

* * * * *

CHAPTER II—DEFINITIONS

SEC. 201. * * *

[(h) The term "device" (except when used in paragraph (n) of this section and in sections 301(i), 403(f), 502(c), and 602(c)) means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals)]

(h) The term "device" (except when used in paragraph (n) of this section and in sections 301(i), 403(f), 502(c), and 602(c)) means instruments, apparatus, implements, machines, contrivances, implants, in vitro reagents, and other similar or related articles, including their components, parts, and and accessories (1) recognized in the official National Formulary, the official United States pharmacopeia or any supplement to them; or (2) intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment, or prevention of disease in man or other animals; or (3) intended to affect the structure or any function of the body of man or other animals; and (4) which do not achieve any of their principal intended purposes through chemical action within or on the body of man or other animals and which are not dependent upon being metabolized for the achievement of any of their principal intended purposes.

* * * * *

(y) The term "prescription device" means any device which the Secretary shall designate by regulation as being restricted to sale or distribution only upon the written or oral authorization of a practitioner licensed by law to administer or use such device and under such other conditions as the Secretary may by regulation prescribe. The Secretary may designate as a prescription device, pursuant to the preceding sentence, only a device which:

(1) because of its potentiality for harmful effect, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer or use such device; or

(2) is limited by an approval application under section 514 to use under the profes-

sional supervision of a practitioner licensed by law to administer or use such device.

CHAPTER III—PROHIBITED ACTS AND PENALTIES

PROHIBITED ACTS

SEC. 301. * * *

(e) The refusal to permit access to or copying of any record as required by section 703; or the failure to establish or maintain any record, or make any report, required under section 505 (i) or (j), 507 (d) or (g) [or] 512(j), (l), or (m), *514(k)*, or *516(a)* or the refusal to permit access to or verification or copying of any such required record.

* * * * *

(j) The using by any person to his own advantage, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this Act, any information acquired under authority of section 404, 409, 505, 506, 507, *511*, 512, *513, 514, 515, 516*, 704, or 706 concerning any method or process which as a trade secret is entitled to protection. *The Secretary may provide any information which contains or relates to a trade secret or other matter referred to in this section or in section 1905 of title 18, United States Code, to a contractor in furtherance of the provisions of this Act, and such contractor shall take such security precautions as are prescribed in regulations promulgated by the Secretary and shall be subject to the provisions and penalties established in this Act and in section 1905 of title 18, United States Code.*

* * * * *

(L) The using, on the labeling of any drug *or device* or in any advertising relating to such drug *or device*, of any representation or suggestion that approval of an application with respect to such drug *or device* is in effect under section *505 or 514, as the case may be*, [505] or that such drug *or device* complies with provisions of such section.

* * * * *

(q) (1) The failure or refusal to furnish any notification or other material or information as required by section 515 or 516; or (2) the failure or refusal to comply with any requirement prescribed under authority of section 515(c).

* * * * *

SEIZURE

SEC. 304. (a) (1)

* * * * *

(2) The following shall be liable to be proceeded against at any time on libel of information and condemned in any district court of the United States or United States court of a Territory within the jurisdiction of which they are found: (A) Any drug that is a counterfeit drug, (B) Any container of a counterfeit drug, [and] (C) Any punch, die, plate, stone, labeling, container, or other thing used or designed for use in making a counterfeit drug or drugs [.], *and (D) Any adulterated or misbranded device.*

* * * * *

CHAPTER V—DRUGS AND DEVICES

ADULTERATED DRUGS AND DEVICES

SEC. 501. A drug or device shall be deemed to be adulterated—

(a) * * *

* * * * *

(e) (1) If it is, or purports to be, or is represented as, a device with respect to which, or with respect to any component, part, or accessory of which there has been promulgated a performance standard under section 513, unless such device, or such component, part, or accessory, is in all respects in conformity with such performance standard; or

(2) if it is a banned device.

(f) If (1) it is a device, and (2) such devices, or any component, part, or accessory thereof, is deemed unsafe or ineffective within the meaning of section 514 with respect to its use or intended use.

(g) If it is a device and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, holding, or installation do not conform to, or are not operated or administered in conformity with, current good manufacturing practice, as determined by regulations of the Secretary promulgated under section 701(a) after consultation with all interested persons and after an opportunity for a hearing, to assure that such device is safe and effective.

MISBRANDED DRUGS AND DEVICES

SEC. 502. A drug or device shall be deemed to be misbranded—

(a) * * *

* * * * *

(e) (1) If it is a drug, unless (A) its label bears, to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or the chemical formula), (i) the established name (as defined in subparagraph (3)) [(2)] of the drug, if such there be, and (ii) in case it is fabricated from two or more ingredients, the established name and quantity of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: *Provided*, That the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this paragraph, shall apply only to prescription drugs; and (B) for any prescription drug the established name of such drug or ingredient, as the case may be, on such label (and on any labeling on which a name for such drug or ingredient is used) is printed prominently and in type at least half as large as that used thereon for any proprietary name or designation for such drug or ingredient: and *Provided*, That to the extent that compliance with the requirements of clause (A) (ii) or clause (B) of this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary.

(2) If it is a device, unless its label bears, to the exclusion of any other nonproprietary name, the established name (as defined in subparagraph (4)) of the device, if such there be, prominently printed in type at least half as large as that used thereon for any proprietary name or designation for such device: Provided, That to the extent compliance with the requirements of this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary.

(3) [(2)] As used in [this paragraph (e)] *subparagraph (1)*, the term "established name", with respect to a drug or ingredient thereof, means (A) the applicable official name designated pursuant to section 508, or (B) if there is no such name and such drug, or such ingredient, is an article recognized in an official compendium, then the official title thereof in such compendium, or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name, if any, of such drug or of such ingredient: *Provided further*, That where clause (B) of this subparagraph applies to an article recognized in the United States Pharmacopeia and in the Homeopathic Pharmacopeia under different official titles, the official title used in the United States Pharmacopeia shall apply unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the Homeopathic Pharmacopeia shall apply.

(4) As used in subparagraph (2), the term "established name", with respect to a device, means (A) the applicable official name designated pursuant to section 508, or (B) if there is no such name and such device is an article recognized in an official compendium then the official title thereof in such compendium, or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name of such device, if any.

* * * * *

(j) If it is dangerous to health when used in the dosage, or manner or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

* * * * *

(o) If it [is a drug and] was manufactured, prepared, propagated, compounded, or processed in an establishment in any State not duly registered under section 510.

* * * * *

(q) If it is a device subject to a performance standard promulgated under section 513, unless (1) its labeling bears such instructions and warnings as may be prescribed in such performance standard; and (2) it complies with the requirements of section 513(i)(1).

(r) In the case of any device that is a prescription device, if its advertising is false or misleading in any particular.

(s) In the case of any prescription device distributed or offered for sale in any State, unless the manufacturer, packer, or distributor thereof includes in all advertisements, and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that device a true statement of (1) the established name as defined in section 502(e), printed prominently and in type at least half as large as that used for any trade or brand name thereof, (2) a full description of the components of such device or the formula showing quantitatively each ingredient of such device to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing, and (3) such other information in brief summary relating to side effects, contraindications, and effectiveness as shall be required in regulations which shall be issued by the Secretary after an opportunity for a hearing: Provided, That (A) except in extraordinary circumstances, no regulation issued under this paragraph shall require prior approval by the Secretary of the content of any advertisement, and (B) no advertisement of a prescription device, published after the effective date of regulations issued under this paragraph applicable to advertisements of prescription devices, shall, with respect to the matters specified in this paragraph or covered by such regulations, be subject to the provisions of sections 12 through 17 of the Federal Trade Commission Act, as amended (15 U.S.C. 52–57). This paragraph shall not be applicable to any printed matter which the Secretary determines to be labeling as defined in section 201(m) of this Act.

AUTHORITY TO DESIGNATE OFFICIAL NAMES

SEC. 508. (a) The Secretary may designate an official name for any drug *or device* if he determines that such action is necessary or desirable in the interest of usefulness and simplicity. Any official name designated under this section for any *drug or device* shall be the only official name of that drug *or device* used in any official compendium published after such name has been prescribed or for any other purpose of this Act. In no event, however, shall the Secretary establish an official name so as to infringe a valid trademark.

(b) Within a reasonable time after the effective date of this section, and at such other times as he may deem necessary, the Secretary shall cause a review to be made of

the official names by which drugs are identified in the official United States Pharmacopeia, the official Homeopathic Pharmacopeia of the United States, and the official National Formulary, and all supplements thereto, *and at such times as he may deem necessary shall cause a review to be made of the official names by which devices are identified in any official compendium, and all supplements thereto, to* determine whether revision of any of those names is necessary or desirable in the interest of usefulness and simplicity.

(c) Whenever he determines after any such review that (1) any such official name is unduly complex or is not useful for any other reason, (2) two or more official names have been applied to a single drug *or device*, or to two or more drugs which are identical in chemical structure and pharmacological action and which are substantially identical in strength, quality, and purity, or *two or more devices which are substantially similar in design and purpose* or (3) no official name has been applied to a medically useful drug *or device*, he shall transmit in writing to the compiler of each official compendium in which that drug or drugs *or device* are identified and recognized his request for the recommendation of a single official name for such drug or drugs *or device* which will have usefulness and simplicity. Whenever such a single official name has not been recommended within one hundred and eighty days after such request, or the Secretary determines that any name so recommended is not useful for any reason, he shall designate a single official name for such drug or drugs *or device*. Whenever he determines that the name so recommended is useful, he shall designate that name as the official name of such drug or drugs *or device*. Such designation shall be made as a regulation upon public notice and in accordance with the procedure set forth in section 4 of the Administrative Procedure Act (5 U.S.C. 1003).

(d) After each such review, and at such times as the Secretary may determine to be necessary or desirable, the Secretary shall cause to be compiled, published, and publicly distributed a list which shall list all revised official names of drugs *or devises* designated under this section and shall contain such descriptive and explanatory matter as the Secretary may determine to be required for the effective use of those names.

(e) Upon a request in writing by any complier of an official compendium that the Secretary exercise the authority granted to him under section 508(a), he shall upon public notice and in accordance with the procedure set forth in section 4 of the Administrative Procedure Act (5 U.S.C. 1003) designate the official name of the drug *or device* for which the request is made.

* * * * *

REGISTRATION OF PRODUCERS OF DRUGS AND DEVICES [1]

SEC. 510. (a) As used in this section—

(1) the term "manufacture, preparation, propagation, compounding, or processing" shall include repackaging or otherwise changing the container, wrapper, or labeling of any drug package *or device package* in furtherance of the distribution of the drug *or device* from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer *or user*; and

(2) the term "name" shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

(b) On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs *or a device or devices* shall register with the Secretary his name, places of business, and all such establishments.

(c) Every person upon first engaging in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs *or a device or devices* in any establishment which he owns or operates in any State shall immediately register with the Secretary his name, place of business, and such establishment.

[(d) Every person duly registered in accordance with the foregoing subsections of this section shall immediately register with the Secretary any additional establishment which he owns or operates in any State and in which he begins the manufacture, preparation, propagation, compounding, or processing of a drug or drugs.]

(d)(1) Every person duly registered in accordance with the foregoing subsections of this section shall immediately register with the Secretary any additional establishment which he owns or operates in any State and in which he begins the manufacture, preparation, propagation, compounding, or processing of a drug or drugs, or of a device or devices.

(2) Every person who is registered with the Secretary pursuant to the first sentence of subsection (b) *or* (c) *or paragraph (1) of this subsection shall, if any device is thereafter manufactured, prepared, propagated, compounded, or processed in any establishment with respect to which he is so registered, immediately file a supplement to such registration with the Secretary indicating such fact.*

* * * * *

(g) The foregoing subsections of this section shall not apply to—

(1) pharmacies which maintain establishments in conformance with any applicable local laws regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs *or devices*, upon prescriptions of practitioners licensed to administer such drugs *or devices* to patients under the care of such practitioners in the course of their professional practice, and which do not manufacture, prepare, propagate, compound, or process drugs *or devices* for sale other than in the regular course of their business of dispensing or selling drugs *or devices* at retail;

(2) practitioners licensed by law to prescribe or administer drugs *or devices* and who manufacture, prepare, propagate, compound, or process drugs *or devices* solely for use in the course of their professional practice;

(3) persons who manufacture, prepare, propagate, compound, or process drugs or devices solely for use in research, teaching, or chemical analysis and not for sale;

(4) such other classes of persons as the Secretary may by regulation exempt from the application of this section upon a finding that registration by such classes of persons in accordance with this section is not necessary for the protection of the public health.

(h) Every establishment in any State registered with the Secretary pursuant to this section shall be subject to inspection pursuant to section 704 and shall be so inspected by one or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment pursuant to this section and at least once in every successive 2-year period thereafter.

(i) Any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding or processing of a drug or drugs or a device or devices shall be permitted to register under this section pursuant to regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (j) in the case of a device or devices and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by agreement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether drugs *or devices* manufactured, prepared, propagated, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a) of this Act.

(j)(1) Every person who registers with the Secretary under subsection (b), (c), or (d) shall, at the time of registration under any such subsection, file with the Secretary [a list of all drugs (by established name] *a list of all drugs and a list of all devices (in each case by established name* (as defined in section 502(e)) and by any proprietary name) which are being manufactured, prepared, propagated, compounded, or processed by him for commercial distribution and which he has not included in any list of drugs *or devices* filed by him with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

(A) in the case of a drug contained in [such] *the applicable list* [list] and subject to section 505, 506, 507, or 512, *or a device contained in the applicable list with respect to which a performance standard has been promulgated under section 513 or which is subject to section 514* a reference to the authority for the marketing of such drug *or device* and a copy of all labeling for such drug *or device;*

(B) in the case of any other drug *or device* contained in [such list—] *an applicable list—*

[(i) which is subject to section 503(b)(1), a copy of all labeling for such drug, a representative sampling of advertisements for such drug, and, upon request made by the Secretary for good cause, a copy of all advertisements for such drug, product, or

(i) which drug is subject to section 503(b)(1), or which device, is a prescription device *a copy of all labeling for such drug or device, a representative sampling of advertisements for such drug or device, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular drug product or device, or;*

[(ii) which is not subject to section 503(b)(1), the label and package insert for such drug and a representative sampling of any other labeling for such drug:]

(ii) which drug is not subject to section 503(b)(1), or which device is not a prescription device, the label and package insert for such drug or device and a representative sampling of any other labeling for such drug or device;

(C) in the case of any drug contained in [such list] *an applicable list* which is described in subparagraph (B), a quantitative listing of its active ingredient or ingredients, except that with respect to a particular drug

[1] The Congress hereby finds and declares that in order to make regulation of interstate commerce in drugs *and devices* effective, it is necessary to provide for registration and inspection of all establishments in which drugs *or devices* are manufactured, prepared, propagated, compounded, or processed; that the products of all such establishments are likely to enter the channels of interstate commerce and directly affect such commerce; and that the regulation of interstate commerce in drugs *and devices* without provision for registration and inspection of establishments that may be engaged only in intrastate commerce in such drugs *or devices* would discriminate against and depress interstate commerce in such drugs *and devices*, and adversely burden, obstruct, and affect such interstate commerce.

product the Secretary may require the submission of a quantitative listing of all ingredients if he finds that such submission is necessary to carry out the purposes of this Act; and

(D) if the registrant filing [the] *a* list has determined that a particular drug product contained in such list is not subject to section 505, 506, 507, or 512, *or the particular device contained in such a list is not subject to a performance standard promulgated under section 513, or is not a prescription device* a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular drug product [.] *or device.*

(2) Each person who registers with the Secretary under this subsection shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following information:

(A) A list of each drug *or device* introduced by the registrant for commercial distribution which has not been included in any list previously filed by him with the Secretary under this subparagraph and paragraph (1) of this subsection. A list under this subparagraph shall list a drug *or device* by its established name (as defined in section 502(e)) and by any proprietary name it may have and shall be accompanied by the other information required by paragraph (1).

(B) If since the date the registrant last made a report under this paragraph (or if he has not made a report under this paragraph, since the effective date of this subsection) he has discontinued the manufacture, preparation, propagation, compounding, or processing for commercial distribution of a drug *or device* included in a list filed by him under subparagraph (A) or paragraph (1) notice of such discontinuance, the date of such discontinuance, and the identity (by established name (as defined in section 502 (e)) and by any proprietary name) of such drug *or device.*

(C) If since the date the registrant reported pursuant to subparagraph (B) a notice of discontinuance he has resumed the manufacture, preparation, propagation, compounding, or processing for commercial distribution of the drug *or device* with respect to which such notice of discontinuance was reported; notice of such resumption, the date of such resumption, the identity of such drug *or device* (*each* by established name (as defined in section 502(e)) and by any proprietary name), and the other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary pursuant to this subparagraph.

(D) Any material change in any information previously submitted pursuant to this paragraph or paragraph (1).

(3) The Secretary may also require each registrant under this section to submit a list of each drug product which (A) the registrant is manufacturing, preparing, propagating, compounding, or processing for commercial distribution, and (B) contains a particular ingredient. The Secretary may not require the submission of such a list unless he has made a finding that the submission of such a list is necessary to carry out the purposes of this Act.

Preliminary classification of devices

Sec. 511. (a) Within sixty days after funds are first appropriated for the implementation of this section, the Secretary shall appoint and organize separate classification panels of experts, qualified by scientific training and experience, to review and classify devices intended for human use into appropriate categories based on the safety and effectiveness of such devices. Each panel shall review all devices intended for human use within its respective scientific field for purposes of appropriate classification and shall submit within one year of its appointment a report of its findings and conclusions to the Secretary. To the maximum extent practical the panel or panels shall provide an opportunity for any interested person to submit data and views on the classification of a device (or type or class of device). The Secretary may utilize any such panels which may have been formed for the purpose of such classification prior to enactment of this section and such panels may utilize information and findings developed prior to enactment of this section in making such reports. Such panels shall also serve as scientific review panels under section 514.

(b) (1) Panel members shall be qualified by training and experience to evaluate the safety and effectiveness of devices in the category or class of devices to be referred to such a panel and to the extent feasible shall possess skill in the use of or experience in the development, manufacture, perfection, or utilization of such devices. In addition to such experts, each panel shall include as nonvoting members a representative of consumer interests and a representative of industry interests. Panel members may be nominated by appropriate scientific, trade, and consumer organizations.

(2) The panels shall be organized according to the various fields of clinical medicine and the fundamental sciences which utilize medical devices, and shall consist of members with diversified expertise in such fields as clinical and administrative medicine, engineering, biological and physical sciences, or other related professions. The Secretary shall designate one of the members of each panel to serve as chairman thereof. Panel members shall, while attending meetings or conferences of the panel or otherwise engaged on its business, be compensated at per diem rates fixed by the Secretary but not in excess of the rate for grade GS–18 of the General Schedule at the time of such service, including travel-time, and while so serving away from their homes or regular places of business they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by title 5, United States Code, section 5703, for persons in the Government service employed intermittently. The Secretary shall furnish each panel with adequate clerical and other necessary assistance, and shall prescribe by regulation the procedures to be followed by each panel.

(c) Panels appointed pursuant to subsection (a) shall submit (in the final report of the panel or such interim reports as may be appropriate) recommendations for the classification of devices for purposes of and in accordance with sections 513 and 514 into one of the three following classes and shall, to the extent practicable, assign priorities within such classes:

(1) Those devices (A) for which insufficient information exists to—

(i) assure effectiveness, or

(ii) assure that exposure to such devices will not cause unreasonable risk of illness or injury, and

(B) for which standards or other means may not be appropriate to reduce or eliminate such risk of illness or injury and which therefore should be subject to premarket scientific review pursuant to section 514. Such review, either initial or continuing, shall be required if the panels determine that such device purports or is represented to be for a use which is life sustaining or life supporting.

(2) Those devices for which in order to assure effectiveness or to reduce or eliminate unreasonable risk of illness or injury it is appropriate to establish reasonable performance standards pursuant to section 513 relating to safety and effectiveness and for which other means may not be appropriate to reduce or eliminate such risk of illness or injury.

(3) Those devices which are safe and effective when used in conjunction with instructions for usage and warnings of limitation, which are adequate for the persons by whom the device is represented or intended for use, which present a minimum risk, and which should be exempt from requirements for scientific review or performance standards.

(d) As soon as possible after filing of the report required for compliance with subsection (a), the Secretary shall publish such report in the Federal Register and provide interested persons an opportunity to comment thereon. After reviewing such comments the Secretary shall by regulation provide for preliminary classification of such devices. The Secretary may establish priorities for implementing the action warranted by such classification under sections 513 and 514 and may defer such action for any device until an appropriate time, consistent with expenditious implementation of these provisions.

(e) The Secretary, with the advice of the appropriate panel and after making a specific finding and publishing such finding in the Federal Register and providing interested persons an opportunity for comment thereon may by regulation change the preliminary classification of a device or group of devices from one category to another.

(f) The preliminary classification of a device shall constitute public notice that, as expeditiously as is feasible, the Secretary will issue a final classification in the form of a determination of a need for a performance standard pursuant to section 513 or a determination of the need for scientific review pursuant to section 514. The preliminary classification shall not relieve the Secretary of any obligation to provide notice as required by sections 513 and 514. Any interested person will have an opportunity, pending such final classification, to undertake studies and other work appropriate to develop a performance standard or to demonstrate the safety and effectiveness of a device.

(g) After the promulgation of regulations under subsection (d) of this section and commensurate with the effective date of section 501(f) a manufacturer of a medical device which has not been classified in accordance with this section shall file an application for the classification of the device and must receive from the Secretary notification of the classification of such device. The Secretary shall act on the application within sixty days unless the Secretary and the manufacturer agree to an additional period of time. The Secretary shall classify the devices in accordance with the criteria and procedures listed in 511, 513, and 514 including the requirement for consultation with the appropriate panel or panels. The appeal provisions of sections 513 and 514 shall apply.

* * * * *

PERFORMANCE STANDARDS FOR MEDICAL DEVICES

Authority To Set Standards

SEC. 513. (a)(1) Whenever in the judgment of the Secretary such action is appropriate to assure effectiveness or to reduce or eliminate unreasonable risk of illness or injury associated with exposure to or use of a device (including the need for uniformity and compatibility with systems or environments in which it is intended to be used) and for which other means may not be appropriate to reduce or eliminate such risk of illness or injury he shall by order issued in accordance with subsection (c) of this section promulgate for any device, or type or class of device, for which a performance standard has been determined to be appropriate pursuant to section 511(d), a performance standard relating to safety and effectiveness (including effectiveness over time), and including where necessary: the composition, the construction, the compatibility with power systems and connections,

and the properties, and including where appropriate the uniform identification of such device. Such performance standard shall where appropriate include provisions for the testing of the device and the measurement of its characteristics (including individual lot testing by or at the direction of the Secretary where necessary to assure the accuracy and reliability of results when it is determined that no other more practicable means to assure accuracy and reliability are available to the Secretary) and shall where appropriate require the use and prescribe the form and content of instructions or warnings necessary for the proper installation, maintenance, operation, and use of the device.

(2) A performance standard may require that the device or any component thereof be marked, tagged, or accompanied by clear and adequate warnings or instructions reasonably necessary for the protection of health or safety.

(3) The Secretary shall provide for a periodic evaluation of the adequacy of all performance standards promulgated under this section in order to reflect changes in the state of the art of the development of devices and in applicable medical, scientific, and other technological data.

(4) For the purposes of this section, when a device is intended for use by a physician, surgeon, or other person licensed or otherwise specially qualified therefor, its safety and effectiveness shall be determined with regard to such intended use.

Consultation with Other Federal Agencies and Interested Groups; Use of Other Federal Agencies

(b)(1) Prior to (A) initiating a proceeding under subsection (c) to promulgate a performance standard under this section, (B) initiating the development of a proposed performance standard under subsection (f) of this section, or (C) the taking of any action under subsection (g) of this section, the Secretary shall to the maximum practicable extent consult with, and give appropriate weight to relevant standards published by, other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting agencies or organizations. In considering proposals for the development of performance standards, the Secretary shall to the maximum extent practicable invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, and consumer organizations which in his judgment can make a significant contribution to such development.

(2) In carrying out his duties under this section, the Secretary shall utilize to the maximum practicable extent the personnel, facilities, and other technical support available in other Federal agencies.

Initiation of Proceeding for Performance Standards—Development by Interested Parties

(c)(1) A proceeding to promulgate a performance standard under this section shall be initiated by the Secretary by publication of notice in the Federal Register. Such notice shall advise of the opportunity for comment on the need to initiate such proceeding and shall include—

(A) a description or other designation of the device (or type or class of device) to which the proceeding relates;

(B) the nature of the risk or risks intended to be controlled;

(C) a summary of the data on which the Secretary has found a need for initiation of the proceeding;

(D) identification of any existing performance standard (if known to the Secretary) which may be relevant to the proceeding; and

(E) an invitation to any person, including any Federal agency, which has developed or is willing to develop a proposed performance standard to submit to the Secretary, within sixty days after the date of such notice (i) such a performance standard; or (ii) an offer to develop a proposed performance standard in accordance with procedures prescribed by regulations of the Secretary. Such invitation shall specify a period of time, during which the performance standard is to be developed, which shall be a period ending one hundred and eighty days after the publication of the notice, unless the Secretary for good cause finds (and includes such finding in a notice published in the Federal Register) that a different period is appropriate.

(2) Prior to his issuance of an order to promulgate a performance standard, the Secretary shall consider—

(A) the degree of risk of illness or injury associated with those aspects of the devices subject to the order;

(B) the approximate number of devices, or types or classes thereof, subject to the order;

(C) the benefit to the public from the devices subject to the order, and the probable effect of the order upon the utility, cost or availability of the devices to meet that need;

(D) means of achieving the objective of the order with a minimal disruption or dislocation of competition and of reasonable manufacturing and other commercial practices consistent with the public health and safety; and

(E) data and comments submitted pursuant to subsection (c) relevant to such order.

(3) Before taking action pursuant to subsections (d), (e), and (f) concerning the use of an existing performance standard or the designation of a person or governmental body to formulate a proposed performance standard, or simultaneous with such action, the Secretary shall publish a notice in the Federal Register containing his findings pursuant to paragraph (2) on the need to establish a standard. Such findings shall be made only after consideration of the report, comments, and regulation provided for in section 511(d) and the comments received under the notice described in subsection (a)(1), and may be appealed to the courts pursuant to subsection (g)(5) within thirty days after publication in the Federal Register.

Use of Existing Performance Standards

(d) If the Secretary (1) finds that there exists a standard which has been published by any Federal agency or other qualified agency, organization, or institution, (2) has made reference to such standard (unless it is a standard submitted under subsection (c)(1)(E)) in his notice pursuant to subsection (c)(1)(D), and (3) determines that such performance standard may be substantially acceptable to him as a device standard, then he may, in lieu of accepting an offer under this section, publish such performance standard as a proposed device performance standard in accordance with subsection (g).

Acceptance of Offers To Develop Performance Standards

(e)(1) Except as otherwise provided by subsection (d), the Secretary may accept one or more offers to develop a proposed performance standard pursuant to the invitation prescribed by subsection (c)(1)(E) if he determines that (A) the offeror is technically competent to undertake and complete the development of an appropriate performance standard within the period specified in the invitation under subsection (c)(1)(E) and (B) the offeror has the capacity to comply with procedures prescribed by regulations of the Secretary under paragraph (4) of this subsection. Where more than one offer is received and the Secretary determines that the requirements of subparagraphs (A) and (B) have been met, the Secretary shall, wherever practicable, give priority to offerors who have no proprietary interest in the device for which the standard is to be developed. The Secretary shall require, by regulation, that in making an offer, each offeror and appropriate individual directors, officers, consultants, and employees of each offeror company, disclose the following information:

(i) all current industrial or commercial affiliations;

(ii) sources of research support other than the offeror;

(iii) companies in which offerors have financial interests;

(iv) such additional information as the Secretary deems pertinent to reveal potential conflicts of interest with regard to the offer.

The information received by the Secretary from an offeror whose offer has been accepted shall be made public by the Secretary at the time that an offer is accepted.

(2) The Secretary shall publish in the Federal Register the name and address of each person whose offer is accepted, and summary of the terms of such offer as accepted.

(3) When an offer is accepted under this subsection the Secretary may agree to contribute to the offeror's cost in developing a proposed performance standard, if the Secretary determines that such contribution is likely to result in a more satisfactory performance standard than would be developed without such contribution, and that the offeror is financially responsible. Regulations of the Secretary shall set forth the items of cost in which he may participate, except that such items may not include construction (except minor remodeling), or the acquisition of land or buildings.

(4) The Secretary shall prescribe regulations governing the development of proposed performance standards under this subsection and subsection (f). Such regulation shall include requirements—

(A) that performance standards recommended for promulgation be supported by test data or such other documents or materials as the Secretary may reasonably require to be developed, and be suitable for promulgation under subsection (g);

(B) that performance standards recommended for promulgation contain such test methods as may be appropriate for measurement of compliance with such performance standards;

(C) for notice and opportunity by interested persons, including representatives of consumers or consumer organizations, to participate in the development of such performance standards;

(D) for the maintenance of such records as the Secretary prescribes in such regulations to disclose the course of the development of performance standards recommended for promulgation, the comments and other information submitted by any person in connection with such development, including comments and information with respect to the need for such recommended performance standards, and such other matters as may be relevant to the evaluation of such recommended performance standards; and

(E) that the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records, relevant to the expenditure of any contribution of the Secretary, under paragraph (3).

Development of Performance Standards by the Secretary

(f) If the Secretary has published a notice as provided by subsection (c), and—

(1) no person accepts the invitation prescribed by subsection (c)(1)(E);

(2) the Secretary has accepted neither an existing performance standard pursuant to subsection (d) nor an offer to develop a proposed performance standard pursuant to subsection (e); or

(3) the Secretary has accepted an offer pursuant to subsection (e) but determines that the offeror is unwilling or unable to continue the development of the performance standard which was the subject of the offer or the performance standard which has been developed is not satisfactory;

then the Secretary shall proceed to develop a proposed performance standard pursuant to procedures prescribed by subsection (g).

Procedure for Promulgation, Amendment, or Revocation of Performance Standards

(g)(1)(A) Within one year after expiration of the period provided for persons to submit a proposed performance standard or offer to develop a proposed performance standard (which time may be extended by the Secretary by a notice published in the Federal Register stating the good cause therefor) and after review of any proposal submitted under subsection (e), the Secretary shall publish in the Federal Register either a proposal to promulgate a performance standard applicable to the device (or type or class of device) subject to the proceeding, or a notice that the proceeding is terminated. The proposal to promulgate a performance standard shall set forth the performance standard, the manner in which interested persons may examine data and other information on which the performance standard is based, and the period within which interested persons may present their comments on the standard (including the need therefor) orally or in writing. Such period for comment shall be at least sixty days, but not to exceed ninety days which time may be extended by the Secretary by a notice published in the Federal Register stating the cause therefor.

(B) Within ninety days after the expiration of the period for comments pursuant to paragraph (A), the Secretary shall, by order published in the Federal Register, act upon the proposed performance standard or terminate the proceeding. The order shall set forth the performance standard, if any, the reasons for the Secretary's action, and the date or dates upon which the performance standard, or portions thereof, will become effective. Such date or dates shall be established so as to minimize, consistent with the public health and safety, economic loss to, and disruption or dislocation of, domestic and international trade. If any performance standard set forth in the order is substantially different from that set forth in the proposal an additional period of thirty days shall be permitted for comment on such performance standard.

(C) The Secretary may include in the order promulgating a performance standard such findings in addition to those made pursuant to subsection (c)(3) as he may determine to be necessary to support the judgment required by subsection (a)(1).

(2) The Secretary may revoke any performance standard, in whole or in part, upon the ground that there no longer exists a need therefor or that such performance standard (or part thereof) is no longer in the public interest. Such revocation shall be published as a proposal in the Federal Register and shall set forth such performance standard or portion thereof to be revoked, a summary of the reasons for his determination that there may no longer be a need therefor or that such standard (or any part thereof) may no longer be in the public interest, the manner in which interested persons may examine data and other information relevant to the Secretary's determination, and the period within which any interested person may present his views, orally or in writing, with respect to such revocation. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall publish such order in the Federal Register. The order shall include the reasons for the Secretary's action and the date or dates upon which such revocation shall become effective.

(3) The Secretary may propose an amendment of a performance standard on his own initiative or on the petition of any interested person by publishing such proposal in the Federal Register. Such proposal shall be subject to paragraphs (4) and (5) of this subsection and subsection (h).

(4) To the extent not inconsistent with this section, the provisions of section 553 of title 5 of the United States Code, shall govern proceedings under this section to promulgate, amend, or revoke a performance standard.

(5)(A) In a case of actual controversy as to the validity of any order promulgating, amending, or revoking a performance standard or findings that a standard is needed or a regulation banning a device, any person who will be adversely affected by such order if placed in effect may at any time prior to the thirtieth day after such order is issued file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28, United States Code.

(B) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary the court may order such additional evidence (and evidence in rebuttal thereof) to be presented to the Secretary. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence, so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(C) Upon the filing of the petition referred to in subparagraph (A) of this paragraph, the court shall have jurisdiction to affirm the order, or to set it aside in whole or in part, temporarily, or permanently. If the order of the Secretary refuses to issue, amend, or repeal a regulation and such order is not in accordance with law the court shall by its judgment order the Secretary to take action with respect to such regulation, in accordance with law. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(D) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended.

(E) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(F) A certified copy of the transcript of the record of the proceedings before the Secretary shall be furnished by the Secretary to any interested party at his request, and payment of the costs thereof and shall be admissible in any criminal libel for condemnation, exclusion of imports, or other proceeding arising under or in respect of this Act, notwithstanding proceedings with respect to the order have been previously instituted or become final under this subsection.

(6) The Secretary may by regulations prohibit a manufacturer of a device from stockpiling any device to which a performance standard applies, so as to prevent such manufacturer from circumventing the purpose of such performance standard. For purposes of this paragraph, the term 'stockpiling' means manufacturing or importing a device between the date of promulgation of such performance standard and its effective date at a rate which is significantly greater (as determined under the regulations under this paragraph) than the rate at which such device was produced or imported during a base period (prescribed in the regulations under this paragraph) ending before the date of promulgation of the performance standard.

Referral to Independent Advisory Committee

(h)(1) The Secretary may refer a proposal under subsection (g) to an advisory committee of experts for a report and recommendation with respect to any matter involved in such proposal which requires the exercise of scientific judgment. Such referral shall be prior to or after publication under such subsection, and shall be so referred upon a request, within the time for comment specified in the proposal, of any interested person (unless the Secretary finds the request to be without good cause). For the purpose of any such referral, the Secretary shall appoint an advisory committee (which may be a standing advisory scientific review panel established under section 514(b)) and shall refer to it, together with all the data before him, the matter so involved for study, and for a report and recommendation. The advisory committee shall, after independent study of the data furnished to it by the Secretary and other data before it, certify to the Secretary a report and recommendations, together with all underlying data and a statement of the reasons or basis for the recommendations. A copy of such report shall be promptly supplied by the Secretary to any person who has filed a petition, or who has requested such referral to the advisory committee. After giving consideration to all data then before him, including such report, recommendations, underlying data, and statement, and to any prior order issued by him in connection with such matter, the Secretary shall by order conform or modify any prior order, or, if no such prior order has been issued, shall by order act upon the proposal. Any interested person shall have the right to consult with such advisory committee, and such advisory committee is authorized to consult with any person, in connection with the matter referred to it.

(2) The Secretary shall appoint as members of any such advisory committee persons qualified in the subject matter to be referred to the committee and of appropriately diversified professional background. Members of an advisory committee who are not in the regular full-time employ of the United States, while attending conferences or meetings of their committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary but not at rates exceeding the daily equivalent for grade GS–18 of the General Schedule for each day so engaged, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently. The Secretary shall furnish the committee with clerical and other assistance, and shall by regulation prescribe the procedures to be followed by the committee.

Testing or Manufacture of Devices To Assure Compliance With Standards

(i)(1) Every manufacturer of a device subject to a standard under this section shall assure the Secretary, at such times and in such form and manner as the Secretary shall by regulation prescribe, that testing methods

prescribed by the performance standard show the device to comply therewith, or that the device has been manufactured under a program of quality control which is in accord with current good manufacturing practice (as may be determined by regulations of the Secretary) designed to assure such compliance.

(2) To assure that devices conform to performance standards under this section, the Secretary shall review and evaluate on a continuing basis testing and other quality control programs carried out by manufacturers of devices subject to such performance standards.

Exemption

(j) This section shall not apply to any device (1) intended solely (A) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man or (B) to affect the structure or any function of the body of such animals; or (2) subject to section 514 except for those characteristics of the device made subject to provisions of existing performance standards by an application approved pursuant to that section; or (3) any device of a particular manufacturer which the Secretary finds pursuant to regulations issued after an opportunity for a hearing may notwithstanding any standard promulgated under this section be marketed pursuant to an approval under section 514.

Temporary Permits

(k) The Secretary shall issue regulations permitting the interstate shipment of devices varying from an applicable performance standard for the purpose of investigation or other testing prior to amendment of the standard. Such regulations may include reasonable conditions related to the safety and effectiveness of the devices.

Custom Devices

(l) This section shall not apply to any custom device to the extent that it is ordered by a physician (or other specially qualified persons, authorized by regulations promulgated by the Secretary, after an opportunity for a hearing) to be made in a special way for individual patients. Any such device shall comply with all aspects of any applicable performance standard except those specifically order by a physician or such other authorized person to be changed. This subsection shall apply only to devices ordered for individual patients, and shall not otherwise exempt a device from subsection (k). Custom devices shall not be used as a course of conduct and shall not be generally available in finished form for purchase or for dispensing upon prescription, and whether in finished form or otherwise, shall not be made available through commercial channels by the maker or processor thereof.

Banned Device

(m) (1) Whenever the Secretary finds after consultation with the appropriate panel or panels established under section 514(b) and after affording all interested persons an opportunity for an informal hearing, that—

(A) a device presents an unreasonable risk of illness or injury or deception; and

(B) no feasible performance standard or approved application under section 514 would adequately protect the public from the unreasonable risk of illness or injury or deception associated with such device,

he may propose and, in accordance with subsection (g), promulgate a regulation declaring such product a banned device.

(2) The Secretary may declare a proposed regulation banning a device to be effective on an interim basis after publication in the Federal Register, pending completion of the procedures established in subsection (g) (3), if he determines, after affording all interested persons an opportunity for an informal hearing, that such banning will expeditiously reduce or eliminate a hazard to the public health or safety, fraud, or gross deception associated with such device.

Expedited Amendment

(n) The Secretary may declare a proposed amendment of a performance standard to be effective on an interim basis after publication in the Federal Register, pending completion of the procedures established in subsection (g) (3), if he determines, after affording all interested persons an opportunity for an informal hearing, that such amendment will permit rapid implementation of desirable changes or will expeditiously reduce or eliminate a hazard to the public health or safety without prohibiting devices permitted by the existing performance standard and that to do so is in the public interest.

SCIENTIFIC REVIEW OF CERTAIN MEDICAL DEVICES

When Scientific Review Is Required

SEC. 514. (a) (1) The Secretary may declare that a device (or type or class of device) for which scientific review has been determined to be appropriate pursuant to section 511 (d) shall be subject to scientific review under this section with respect to any particular use or intended use thereof it, after consultation with the appropriate panel or panels specified in subsection (b), he finds that (A) such review is appropriate to assure effectiveness or is appropriate to reduce or eliminate unreasonable risk of illness or injury associated with exposure to or use of a device and (B) other means available to the Secretary may not be appropriate to reduce or eliminate such risk of illness or injury. (2) The Secretary may declare that a device (or type or class of device) shall be subject to scientific review under this section with respect to any particular use or intended use thereof if he (A) determines that scientific review for any device is appropriate to protect the public health and safety and (B) finds that other means available to the Secretary may not be appropriate to reduce or eliminate such risk of illness or injury. To the maximum extent practicable the panel or panels shall provide an opportunity for any interested person to submit data and views on the appropriateness of applying scientific review to a device (or type or class of device) or any particular use of a device. The declaration shall be by regulation (which may be rescinded by the Secretary) which shall not set forth and be based upon the report, comments, and regulations provided for in section 511(d), the findings prescribed in this subsection, and findings as described in section 513(c)(2). The promulgation of such regulation may be appealed to the courts pursuant to the provisions of section 513(g)(5) within thirty days after publication in the Federal Register. A device (or type or class of device) declared to be subject to scientific review shall be deemed unsafe or ineffective for the purpose of the application of section 501(f) unless either—

(i) there is in effect an approval of an application with respect to such device under this section,

(ii) such device is exempted by or pursuant to subsections (k), (l), or (m) of this section, or

(iii) such device is intended solely (I) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man or (II) to affect the structure or any function of the body of such animals.

Standing Advisory Scientific Review Panels

(b) For the purpose of reviewing applications filed under subsection (c), and of reviewing plans and protocols submitted under subsection (k)(4), and of reviewing product development protocol under subsection (m) (2) the Secretary shall utilize the standing advisory panels established under section 511. The selection, payment, and administration of these panels shall be governed by section 511.

Application for Scientific Review

(c) (1) Scientific review of a device (or type or class of device) which has been declared subject to such review in accordance with subsection (a) may be obtained by submitting to the Secretary an application for his determination of the safety and effectiveness of the device. The application shall contain (A) full reports of all information, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show whether or not such device is safe and effective for use; (B) a full statement of the composition, properties, and construction, and of the principle or principles of operation, of such device; (C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of such device; (D) an identifying reference to any performance standard, applicable to such device, or component of such device, which is in effect pursuant to section 513, and either adequate information to show that such device fully meets such performance standard or adequate information to justify any deviation from such standard; (E) such samples of such device and of the articles used as components thereof as the Secretary may require; (F) specimens of the labeling proposed to be used for such device; and (G) such other information, relevant to the subject matter of the application, as the Secretary, upon advice of the appropriate panel or panels established pursuant to subsection (b), may require.

(2) Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary shall refer such application to the appropriate panel or panels (established pursuant to subsection (b)) for study and for submission (within such period, if any, as he may establish) of a report and recommendations, together with all underlying data and the reasons or basis for the recommendations. The provisions of section 706 (d)(2) shall apply with respect to the material so submitted.

Consideration of an Initial Action on Application

(d) As promptly as possible, but in no event later than one hundred and twenty days after the receipt of an application under subsection (c), unless an additional period is agreed upon by the Secretary and the applicant, the Secretary, after considering the report and recommendations referred to in paragraph (2) of such subsection, shall—

(1) approve the application if he finds that none of the grounds for denying approval specified in subsection (e) applies,

(2) advise the applicant that the application is not in approvable form; and inform the applicant, insofar as the Secretary determines to be practicable, of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols, prescribed by the Secretary); or

(3) deny approval of the application if he finds (and sets forth the basis of such findings as part of or accompanying such denial) that one or more grounds for denial specified in subsection (e) applies.

Basis for Approval or Disapproval; Opportunity for Review

(e) (1) If, upon the basis of the information submitted to the Secretary as part of the application and any other information before him with respect to such device the Secretary finds, after opportunity to the applicant for the review prescribed by paragraph (4), that—

(A) such device is not shown to be safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof;

(B) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing and installation of such device do not conform to the requirements of section 501(g);

(C) there is a lack of adequate scientific evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof;

(D) based on a fair evaluation of all material facts, such labeling is false or misleading in any particular; or

(E) such device is not shown to conform in all applicable respects to a currently effective performance standard promulgated under section 513;

he shall issue an order denying approval of the application and stating the findings upon which the order is based. In determining if a device is shown to be safe for purposes of this paragraph, the Secretary shall weigh any benefit to the public health probably resulting from the use of the device against any hazard to the public health probably resulting from such use.

(2) As used in this subsection and subsection (f), the term 'adequate scientific evidence' means evidence consisting of sufficient well-controlled investigations, including clinical investigations where appropriate, by experts qualified by scientific training and experience to evaluate the effectiveness of the device involved, on the basis of which it could fairly and responsibly be concluded by such experts that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof, unless the Secretary determines that other valid scientific evidence is sufficient to establish the effectiveness of the device.

(3) For the purposes of this section, when a device is intended for use by a physician, surgeon, or other person licensed or otherwise specially qualified therefor, its safety and effectiveness shall be determined in the light of such intended use.

(4)(A) An applicant whose application has been denied approval may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such denial, obtain review thereof in accordance with subsection (i). The Secretary shall consider and give appropriate weight to the report and recommendations received from the advisory committee conducting such review under such subsection.

(B) In lieu of the review provided by subparagraph (A), such applicant may petition to obtain a hearing in accordance with section 554 of title 5 of the United States Code.

Withdrawal of Approval

(f)(1) The Secretary may, upon obtaining where appropriate, advice on scientific matters from a panel or panels established pursuant to subsection (b), and after due notice and opportunity for hearing to the applicant, issue an order withdrawing approval of an application with respect to a device under this section if the Secretary finds—

(A)(i) that clinical or other experience, tests, or other scientific data show that such device is unsafe for use under the conditions of use for which the application was approved; or (ii) on the basis of evidence of clinical experience, not included in or accompanying such application and not available to the Secretary until after the application was approved, or of tests by new methods or by methods not reasonably applicable when the application was approved, evaluated together with the evidence available to the Secretary when the application was approved, that such device is not shown to be safe for use under the conditions of use on the basis of which the application was approved;

(B) on the basis of new information before him with respect to such device, evaluated together with the evidence available to him when the application was approved, that there is a lack of adequate scientific evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof;

(C) that the application filed pursuant to subsection (c) contains or was accompanied by an untrue statement of a material fact;

(D) that the applicant has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation or order under subsection (a) of section 516, or that the applicant has refused to permit access to, or copying or verification of such records as required by paragraph (2) of such subsection;

(E) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such device do not conform to the requirements of section 501(g) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary; or

(F) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the labeling of such device, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary; or

(G) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that such device is not shown to conform in all respects to an applicable performance standard promulgated pursuant to section 513.

(2) If the Secretary (or in his absence the officer acting as Secretary) finds that an imminent health or safety hazard is involved, he may by order suspend the approval of such application immediately and give the applicant prompt notice of his action and afford the applicant an opportunity for an expedited hearing under this subsection. Such authority to suspend the approval of an application may not be delegated.

(3) Any order under this subsection shall state the findings upon which it is based.

Authority To Revoke Adverse Orders

(g) Whenever the Secretary finds that the facts so require, he shall revoke an order under subsection (e) or (f) denying, withdrawing or suspending approval of an application and shall approve such application or reinstate such approval, as may be appropriate.

Service of Secretary's Orders

(h) Orders of the Secretary under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by mailing the order by registered mail or certified mail addressed to the applicant of his last known address in the records of the Secretary.

Referral to Independent Advisory Committee

(i)(1) A person who has filed an application under subsection (c) may petition the Secretary, in accordance with subparagraph (A) of subsection (e)(4), to refer such application, or the Secretary's action thereon, to an advisory committee of experts for a report and recommendations with respect to any question therein involved which requires the exercise of scientific judgment. Upon such petition, or if the Secretary on his own initiative deems such a referral necessary, the Secretary shall appoint an advisory committee and shall refer to it, together with all the data before him, the question so involved for study thereof and a report and recommendations thereon. The committee shall, after independent study of the data furnished to it by the Secretary and other data before it, certify to the Secretary a report and recommendations, together with all underlying data and a statement of the reasons or basis for the recommendations. A copy of the foregoing shall be promptly supplied by the Secretary to any person who has filed a petition, or who has requested such referral to the advisory committee. After giving consideration to all data then before him, including such report, recommendations, underlying data, and statement, and to any prior order issued by him in connection with such matter, the Secretary shall by order conform or modify any prior order or, if no such prior order has been issued, shall by order act upon the application. The applicant, as well as representatives of the Secretary, shall have the right to consult with such advisory committee, and such advisory committee is authorized to consult with any person in connection with the question referred to it.

(2) Section 513(h)(2) shall apply to the appointment, compensation, staffing, and procedure of any such advisory committee.

Judicial Review

(j) The applicant may, by appeal taken in accordance with section 505(h), obtain judicial review of a final order of the Secretary denying or withdrawing approval of an application filed under subsection (c) of this section or a final order under subsection (m) revoking an exemption in effect under that subsection. Judicial review of such final order shall not be denied upon the ground that the petitioner has failed to avail himself of the review or hearing provided by subsection (e)(4) or the hearing provided by subsection (m).

Exemption for Investigational Use

(k)(1) It is the purpose of this subsection to encourage, to the maximum extent consistent with the protection of the public health and safety and with professional ethics, the discovery and development of useful devices and to that end to maintain optimum freedom for individual scientific investigators in their pursuit of that objective. All information required under this section to be submitted to the Secretary or to an institutional review committee shall be concise and no more burdensome than is necessary to permit adequate review.

(2) Subject to the succeeding paragraphs of this subsection, there shall be exempt from the requirement of approval of an application under the foregoing provisions of this section any device which is intended solely for investigational use (in an appropriate scientific environment) by an expert or experts qualified by scientific training and experience to investigate the safety and effectiveness of such device.

(3) The Secretary shall promulgate regulations after an opportunity for a hearing, relating to the application of the exemption referred to in paragraph (2) to any device which is intended for use in the clinical testing thereof upon humans, in developing data required to support an application under subsection (c).

(4) Such regulations may provide for conditioning the exemption, in the case of a device intended for such clinical use, upon—

(A) the submission, by the manufacturer of the device or the sponsor of the investigation, of an outline of the plan of initial clinical testing—

(i) to a local institutional review committee which has been established to supervise clinical testing in the facility where the

initial clinical testing is to be conducted, the composition and procedures of which comply with regulations of the Secretary, for review as being adequate to justify the commencement of such testing, or

(ii) if no such committee exists or if the Secretary finds that the process of review by such committee is inadequate or that protection of health and safety so requires (whether or not the plan has been approved by such committee), to the Secretary for review by the appropriate panel or panels established pursuant to subsection (b) as being adequate to justify the commencement of such testing;

(B) prompt notification to the Secretary by such manufacturer or sponsor (under such circumstances and in such manner as the Secretary prescribes) of approval of any plan pursuant to clause (A)(i);

(C) the submission, by the manufacturer of the device or the sponsor of the investigation, of an adequate protocol for clinical testing to be conducted by separate groups of investigators under essentially the same protocol, together with a report of prior investigations of the device (including, where appropriate, tests on animals) adequate to justify the proposed testing, either (i) to a local institutional review committee for review in accordance with the provisions of clauses (A)(i) and (B), or (ii) to the Secretary for review in accordance with the provisions of clause (A)(ii) if such testing involves facilities in which no such committee exists, or facilities served by more than one local institutional review committee if such committees are unable to agree on the adequacy of the submission;

(D) the obtaining, by the manufacturer of the device or the sponsor of the investigation, if the device is to be distributed to investigators for testing, of a signed agreement from each of such investigators that humans upon whom the device is to be used will be under such investigator's personal supervision or under the supervision of investigators responsible to him;

(E) the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer of the device or the sponsor of the investigation, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of the device, as the Secretary finds will enable him to evaluate the safety and effectiveness of the device in the event of the filing of an application pursuant to subsection (c); and

(F) such other conditions relating to the protection of the public health and safety as the Secretary may determine to be necessary.

Nothing in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of devices. The Secretary shall within thirty days of the receipt of a notification or submission pursuant to this paragraph, determine whether the proposed investigation conforms to the requirements of this section. An investigation shall not begin until the sponsor receives notice from the Secretary that the proposed investigation conforms with the requirements of this section. The Secretary may not delay the beginning of an investigation pursuant to this paragraph unless he finds that the investigation does not conform to the requirements of this section and he has notified the sponsor of such findings. The Secretary may exempt investigations from part or all the requirements of this subsection when he determines that to do so is in the public interest.

(5) Such regulations shall assure that the rights and welfare of the subjects involved are adequately protected, that the risks to an individual are outweighed by the potential benefits to him or by the importance of the knowledge to be gained and that informed consent is to be attained by methods that are adequate. Such informed consent shall be obtained in all but exceptional cases.

(A) For the purposes of this section, only the term "informed consent" shall mean the consent of a person, or his legal representative, so situated as to be able to exercise free power of choice without the intervention of any element of force, fraud, deceit, duress, or other form of constraint or coercion. Such consent shall be evidenced by an agreement signed by such person, or his legal representative. The information to be given to the subject in such written agreement shall include the following basic elements:

(1) a fair explanation of the procedures to be followed, including an identification of any which are experimental;

(2) a description of any attendant discomforts and risks reasonably to be expected;

(3) a fair explanation of the likely results should the experimental procedure fail;

(4) a description of any benefits reasonably to be expected;

(5) a disclosure of any appropriate alternative procedures that might be advantageous for the subject;

(6) an offer to answer any inquires concerning the procedures; and

(7) an instruction that the subject is free to either decline entrance into a project or to withdraw his consent and to discontinue participation in the project or activity at any time without prejudicing his future care.

In addition, the agreement entered into by such person or his legal representative, shall include no exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights, or to release the institution or its agents from liability for negligence. Any organization which initiates, directs, or engages in programs of research, development, or demonstration which require informed consent shall keep a permanent record of such consent and the information provided the subject and develop appropriate documentation and reporting procedures as an essential administrative function.

(B) The term "exceptional cases" as used in paragraph (5) shall be strictly construed; shall permit the waiver only of those elements of consent listed in subparagraph (A) as may be justified by the circumstances of each case; and shall require the written concurrence in the acting physician's decision by at least two other licensed physicians not involved in the research project, unless in a life threatening situation, it is not feasible to obtain such concurrence.

(6) Whenever the Secretary determines that a device is being or has been shipped or delivered for shipment in interstate commerce for investigational testing upon humans, and that such device is subject to the preceding subsections of this section and fails to meet the conditions for exemption therefrom for investigational use, he shall notify the sponsor of his determination and the reasons therefor, and the exemption will not thereafter apply with respect to such investigational use until such failure is corrected.

(7) In determining whether this subsection is applicable to any device and, if so, whether there has been compliance with the conditions of exemption, or upon application for reconsideration of any such determination, the Secretary shall, if so requested by the sponsor of the investigation, or may on his own initiative, obtain the advice of an appropriate expert or experts who are not otherwise, except as consultants, engaged in the carrying out of this Act.

Custom Devices

(l) This section shall not apply to any custom device to the extent that it is ordered by a physician (or other specially qualified persons authorized by regulations promulgated by the Secretary after an opportunity for a hearing) to be made in a special way for individual patients. Any such device shall comply with all aspects of any applicable performance standard except those specifically ordered by a physician or such other authorized person to be changed. This subsection shall apply only to devices ordered for individual patients, and shall not otherwise exempt a device from subsection (k). Custom devices shall not be used as a course of conduct and shall not be generally available in finished form for purchase or for dispensing upon prescription, and, whether in finished form or otherwise, shall not be made available through commercial channels by the maker or processor thereof:

Product Development Protocol

(m)(1) Any device (or type or class of device), manufactured or distributed by a particular person, which has been made subject to this section by a regulation promulgated by the Secretary, may be exempted by the Secretary from the requirement of approval of an application under the foregoing provisions of this section if—

(A) the nature of the device (or type or class of device) is such that it is likely that it will be subject to frequent modification or rapid obsolescence or will not be produced in substantial volume; and

(B) it is intended solely for use by or under the direction or supervision of a practitioner licensed by law to use or to prescribe the use thereof; and

(C) it is, or will be, investigated in accordance with an approved product development protocol established pursuant to paragraph (2) of this subsection, or it is subject to an effective notice of completion of the requirements of such protocol.

(2) Any person may submit a petition to the Secretary to establish a product development protocol with respect to a particular device (or type or class of device) meeting the requirements set forth in subparagraphs (A) and (B) of paragraph (1) of this subsection. Such petition shall include supporting data and a proposed protocol. The Secretary shall, within thirty days, refer any such petition to the appropriate panel of experts appointed pursuant to subsection (b) of this section. Such panel may, within sixty days, or such other time as may be agreed upon by the panel and the petitioner, approve with or without modification the proposed protocol. The protocol, if approved, shall provide—

(A) the investigational and testing procedures required prior to the commencement of clinical trials of such device and subsequent significant modifications thereto;

(B) a requirement that an institutional review committee similar to that described in clause (i) of subparagraph (A) of paragraph (4) of subsection (k) of this section shall make a written finding that the predicted risk-to-benefit ratio applicable to the use of the device justifies clinical trials and that one or more such committees will continually monitor and make periodic written records on all clinical trials conducted in connection with the institution in which such committee operates;

(C) the type and quantity of clinical trials and findings therefrom required prior to the filing of a notice of completion of a product development protocol;

(D) a requirement for complete records of the investigation to be maintained which are adequate to show compliance with the product development protocol;

(E) a requirement that consent, as described in paragraph (5) of subsection (k) of this section, be obtained from all subjects of the investigation; and

(F) a requirement that copies of all records which are to be maintained pursuant to this paragraph be made available to the Secretary upon request.

(3) If the panel to which such petition has been referred does not approve the proposed protocol within sixty days (or within such other time as may be agreed upon), the Secretary may consider and approve with or without modification the proposed protocol within sixty days after the date he is notified that the panel has concluded not to approve a protocol. If neither the panel nor the Secretary approves a proposed protocol, the Secretary shall issue a final order denying the petition and stating the grounds therefor.

(4) At any time after a product development protocol for a particular device (or type or class of device) has been approved pursuant to this section, the petitioner may submit a notice of completion stating that the requirements of the protocol have been fulfilled and that, to the best of his knowledge, there is no reason bearing on safety, effectiveness, or other public health considerations why the device should not be marketed. Such notice shall contain all the data and information from which the petitioner made this determination. The Secretary shall approve or disapprove the notice of completion within ninety days after receipt of such notice.

(5) The Secretary may, after providing the petitioner an opportunity for an informal hearing, at any time prior to approving a notice of completion, issue a final order to revoke a product development protocol or disapprove a notice of completion if he finds that—

(A) the petitioner has failed substantially to comply with the requirements of the protocol; or

(B) the results of the clinical trials conducted differ so substantially from the results required in the protocol that further trials cannot be justified; or

(C) such device is not shown to be safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(D) there is a lack of adequate scientific evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

A final order issued under this paragraph shall be in writing and shall contain the reasons to support the conclusions thereof.

(6) The Secretary (or in his absence the officer acting as Secretary) may at any time, by an order in writing stating the findings on which it is based, immediately revoke an exemption from the requirement of approval of an application under the foregoing provisions of this section, if he finds that there is an imminent hazard to the public health or safety caused by the existence of the exemption. In taking such action the Secretary shall give prompt notice to the person following the protocol or having filed the notice of completion, and afford such person an opportunity for an expedited hearing under this paragraph.

(7) At any time after a notice of completion has been approved, the Secretary may issue an order revoking an exemption of the device (or type or class of device) from the requirement of approval of an application under the foregoing provisions of this section if he finds that any of the grounds listed in subparagraphs (A) through (F) of paragraph (1) of subsection (f) of this section apply. The provisions of paragraphs (1) and (3) of subsection (f) and subsections (g) through (j) of this section shall apply.

(8) Whenever the Secretary finds that the facts so justify, he may reconsider an order under this subsection revoking the exemption granted by this subsection and reinstate the exemption.

Transitional Provisions

(n)(1) If, on the day immediately prior to the date upon which a device is declared to be subject to scientific review under this section, the device was in use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man, or for the purpose of affecting the structure or any function of the body of man, section 501(f) shall become effective with respect to such preexisting use or uses of such device on the closing date (as defined in paragraph (2) of this subsection) or, if sooner, with respect to any person who has filed an application, on the effective date of an order of the Secretary approving or denying approval of such application with respect to such use of the device under this section.

(2) For the purposes of this subsection, the term "closing date" means, with respect to a device, the first day of the thirty-first calendar month which begins after the month in which the device is declared to be subject to scientific review under this section, except that, if in the opinion of the Secretary it would not involve any undue risk of the public health, he may on application or on his own initiative postpone such closing date with respect to any particular use or uses of a device until such later date (but not beyond the close of the sixtieth month after the month of such declaration) as he determines is necessary to permit completion, in good faith and as soon as practicable, of the scientific investigations necessary to establish the safety and effectiveness of such use or uses. The Secretary may terminate any such postponement at any time if he finds that such postponement should not have been granted or that, by reason of a change in circumstances, the basis for such postponement no longer exists or that there has been a failure to comply with a requirement of the Secretary for submission of progress reports or with other conditions attached by him to such postponement.

Notification of Defects in, and Repair or Replacement of, Devices

SEC. 515. (a)(1) Every person who acquires information which reasonably supports the conclusion that a device intended for human use, which has been produced, assembled, distributed, or imported by him (A) contains a defect which could create a substantial risk to the public health or safety, or (B) on or after the effective date of an applicable performance standard promulgated pursuant to section 513 fails to comply with such standard, shall immediately notify the Secretary of such defect or failure to comply if such device has left the control of the manufacturer. No information or statements exclusively derived from the notification required by this subsection (except for information contained in records required to be maintained under any provision of this Act) shall be used as evidence in any proceeding brought against a natural person pursuant to section 303 of this Act with respect to a violation of law occurring prior to or concurrently with the notification.

(2) The notifications required by paragraph (1) of this subsection shall contain a clear description of such defect or failure to comply, and evaluation of the hazard related thereto, and a statement of the measures to be taken to correct such defect or failure or to effect protection against the hazard created by the defect or failure.

(3) For purposes of this section, the term "defect" means a deficiency in design, materials, or workmanship, and does not include any deficiency resulting from use of improper accessories or from improper installation, maintenance, repair, or use of the device or any deficiency resulting from normal use of the device after the lifetime represented by the manufacturer has expired.

(b)(1) If the Secretary determines that a device intended for human use distributed in commerce presents a substantial hazard to the public health or safety and that notification is required in order adequately to protect the public from such hazard, he shall immediately make certain that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved to all persons (including manufacturers, distributors, retailers, health professionals, and users) who would properly receive such notification in order to reduce or eliminate the effects of such hazard.

(2) Where the Secretary determines that users shall not be notified under paragraph (1), he shall provide those health professionals who receive notification an opportunity to comment on the advisability of notifying the general public of the hazard. Within 30 days after such notification the Secretary shall notify the general public of the hazard, if after reviewing such comments, he determines that such notification will not endanger the public health.

(c) If the Secretary determines (after affording interested parties, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e)) that a device intended for human use distributed in commerce presents a substantial hazard to the public health or safety and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such device to take whichever of the following actions the person to whom the order is directed elects to the extent that the consent of the purchaser and, where appropriate, his physician, is obtained:

(1) bring such device into conformity with the requirements of the applicable performance standard or repair the defect in such device;

(2) replace such device with a like or equivalent device which complies with the applicable performance standard or which does not contain the defect; or

(3) refund the purchase price of such device (less a reasonable allowance for use, if such device has been in the possession of a user for one year or more (A) at the time of public notice under subsection (c), or (B) at the time the user receives actual notice of the defect or noncompliance, whichever first occurs.

An order under this subection may also require the person to whom it applies to submit a plan, satisfactory to the Secretary for taking action under whichever of the preceding paragraphs of this subsection such person has elected to act. The Secretary shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Secretary shall specify which person has the election under this subsection.

(d)(1) No charge shall be made to any person (other than a manufacturer, distributor, or retailer) who avails himself of any remedy provided under an order issued under subsection (c), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

(2) An order issued under subsection (b) or (c) with respect to a device may require any person who is a manufacturer, distributor, or retailer of the device to reimburse any other person who is a manufacturer, distributor, or retailer of such device for such other person's expenses in connection with carrying out the order, if the Secretary determines such reimbursement to be in the public interest.

(3) An order under subsection (c) may be issued only after an opportunity for an informal hearing. If the Secretary determines that any person who wishes to participate

in such hearing is a part of a class of participants who share an identity of interest, the Secretary may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Secretary if such class fails to designate such a representative).

(e) The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law.

Records and Reports on Devices

SEC. 516. (a)(1) Every person engaged in manufacturing, processing, or distributing or selling a device that is subject to a performance standard promulgated under section 513, or with respect to which there is in effect an approval under section 514 of an application filed under subsection (c) thereof, shall establish and maintain such records, and make such reports to the Secretary, of data relating to clinical experience and other data or information, received or otherwise obtained by such person with respect to such device, and bearing on the safety or effectiveness of such device, or on whether such device may be adulterated or misbranded, as the Secretary may by general regulation, or by special regulation or order applicable to such device, require. In prescribing such regulations or issuing such orders the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients and shall provide, wherever he deems it appropriate, for the examination, upon request, by the persons to whom such regulations or orders are applicable, of similar information received or otherwise obtained by the Secretary.

(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

(b) Subsection (a) shall not apply to—

(1) practitioners licensed by law to prescribe or administer drugs and devices and who manufacture or process devices solely for use in the course of their professional practice;

(2) persons who manufacture or process devices solely for use in research or teaching and not for sale; and

(3) such other classes of persons as the Secretary may by or pursuant to regulation exempt from the application of this subsection upon a finding that such application is not necessary to accomplish the purposes of this subsection.

(c) Every person engaged in manufacturing a device subject to this Act shall provide to the Secretary upon his request such technical data and other data or information with respect to such device as may be reasonably required to carry out this Act.

CHAPTER VII—GENERAL ADMINISTRATIVE PROVISIONS

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FACTORY INSPECTION

SEC. 704. (a) For purposes of enforcement of this Act, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owners, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or after such introduction, or to enter any vehicle, being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. In the case of any factory, warehouse, establishment, or consulting laboratory in which prescription drugs *or prescription devices* are manufactured, processed, packed, or held, inspection shall extend to all things therein (including records, files, papers, processes, controls, and facilities) bearing on whether prescription drugs *or prescription devices* which are adulterated or misbranded within the meaning of this Act, or which may not be manufactured, introduced into interstate commerce, or sold, or offered for sale by reason of any provision of this Act, have been or are being manufactured, processed, packed, transported, or held in any such place, or otherwise bearing on violation of this Act. No inspection authorized [for prescription drugs] by the preceding sentence shall extend to (A) financial data, (B) sales data other than shipment data, (C) pricing data, (D) personnel data (other than data as to qualifications of technical and professional personnel performing functions subject to this Act, and (E) research data (other than data, relating to new drugs, *antibiotic drugs, and devices,* [and antibiotic drugs,] subject to reporting and inspection under regulations lawfully issued pursuant to section 505 (i) or (j), *section 507 (d) or (g), section 514 (k), or section 516* [or section 507 (d) or (g)] of this Act, and data, relating to other drugs *or devices,* which in the case of a new drug *or of a device subject to section 514* would be subject to reporting or inspection under lawful regulations issued pursuant to section 505(j) *or section 516* of this Act). A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. The provisions of the second sentence of this subsection shall not apply to—

(1) pharmacies which maintain establishments in conformance with any applicable local laws regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs *or devices,* upon prescriptions of practitioners licensed to administer such drugs *or devices* to patients under the care of such practitioners in the course of their professional practice, and which do not, either through a subsidiary or otherwise, manufacture, prepare, propagate, compound, or process drugs *or devices* for sale other than in the regular course of their business of dispensing or selling drugs *or devices* at retail;

(2) practitioners licensed by law to prescribe or administer drugs *or prescribe or use devices, as the case may be,* and who manufacture, prepare, propagate, compound, or process drugs or *manufacture or process devices* solely for use in the course of their professional practice;

(3) persons who manufacture, prepare, propagate, compound, or process drugs *or manufacture or process devices* solely for use in research, teaching, or chemical analysis and not for sale;

(4) such other classes of persons as the Secretary may by regulation exempt from the application of this section upon a finding that inspection as applied to such classes of persons in accordance with this section is not necessary for the protection of the public health.

(b) Upon completion of any such inspection of a factory, warehouse, consulting laboratory, or other establishment, and prior to leaving the premises, the officer or employee making the inspection shall give to the owner, operator, or agent in charge a report in writing setting forth any conditions or practices observed by him which, in his judgment, indicate that any food, drug, device, or cosmetic in such establishment (1) consists in whole or in part of any filthy, putrid, or decomposed substance, or (2) has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health. A copy of such report shall be sent promptly to the Secretary.

(c) If the officer or employee making any such inspection of a factory, warehouse, or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

(d) Whenever in the course of any such inspection of a factory or other establishment where food is manufactured, processed, or packed, the officer or employee making the inspection obtains a sample of any such food, and an analysis is made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise unfit for food, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

PUBLICITY

SEC. 705. (a) * * *

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(c) To assist in carrying out the provisions of this Act, the Secretary may cause to be disseminated information regarding standards, testing facilities, and testing methods promulgated, established, or approved under this Act and other information relating to the nature and extent of hazards subject to this Act. Subject to the provisions of section 301(j), the Secretary may also cause to be published reports summarizing clinical data relevant to marketed products approved under this Act.

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ADVISORY COUNCIL ON DEVICES, AND OTHER ADVISORY COMMITTEES

SEC. 708. (a) For the purpose of advising the Secretary with respect to matters of policy in carrying out the provisions of this Act relating to devices, there is established in the Department an Advisory Council on Devices appointed by the Secretary without regard to the civil service and classification laws. The persons so appointed shall be manufacturers and other persons with special knowledge of the problems involved in the regulation of various kinds of devices under this Act, members of the professions using such devices, scientists expert in the investigational use of devices, engineers expert in the development of devices, and members of the general public representing consumers of devices.

(b) The Secretary may also from time to time appoint, without regard to the civil service or classification laws, in addition to the advisory councils and committees otherwise authorized under this Act, such other advisory committees or councils as he deems desirable.

(c) Members of an advisory council or committee appointed pursuant to subsection (a) or (b) who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the council or committee or otherwise engaged on its business, be compensated at per diem rates fixed by the Secretary but not in excess of the rate for grade GS-18 of the General Schedule at the time of such service, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by title 5, United States Code, section 5703, for persons in the Government service employed intermittently.

RESEARCH AND STUDIES RELATING TO DEVICES

SEC. 709. (a) The Secretary is authorized, directly or through contracts with public or

private agencies, institutions, and organizations and with individuals, to plan, conduct, coordinate, and support—

(1) research and investigation into the safety and effectiveness of devices, and into the causes and prevention of injuries or other health impairments associated with exposure to or use of devices;

(2) studies relating to the development and improvement of device performance standards, and device testing methods and procedures; and

(3) education and training with respect to the proper installation, maintenance, operation, and use of devices.

(b) In carrying out the purposes of subsection (a), the Secretary, in addition to or in aid of the foregoing—

(1) shall, to the maximum practicable extent, cooperate with and invite the participation of other Federal or State departments and agencies having related interests, and interested professional or industrial organizations;

(2) shall collect and make available, through publications and by other appropriate means, the results of, and other information concerning, research and other activities undertaken pursuant to subsection (a); and

(3) may procure (by negotiation or otherwise) devices for research and testing purposes, and sell or otherwise dispose of such products.

CHAPTER VIII—IMPORTS AND EXPORTS

SEC. 801. (a) The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon his request, samples of food, drugs, devices, and cosmetics which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. The Secretary of Health, Education, and Welfare shall furnish to the Secretary of the Treasury a list of establishments registered pursuant to subsection (i) of section 510 and shall request that if any drugs *or devices* manufactured, prepared, propagated, compounded, or processed in an establishment not so registered are imported or offered for import into the United States, samples of such drugs *or devices* be delivered to the Secretary of Health, Education, and Welfare with notice of such delivery to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that (1) such article has been manufactured, processed, or packed under insanitary conditions, or (2) such article is forbidden or restricted in sale in the country in which it was produced for from which it was exported, or (3) such article is adulterated, misbranded, or in violation of section 505, then such article shall be refused admission, except as provided in subsection (b) of this section. The Secretary of the Treasury shall cause the destruction of any such article refused admission unless such article is exported under regulations prescribed by the Secretary of the Treasury, within ninety days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations. Clause (2) of the third sentence of this paragraph shall not be construed to prohibit the admission of narcotic drugs the importation of which is permitted under the Controlled Substances Import and Export Act.

(b) Pending decision as to the admission of an article being imported or offered for import, the Secretary of the Treasury may authorize delivery of such article to the owner or cosignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Secretary of Health, Education, and Welfare that an article included within the provisions of clause (3) of subsection (a) of this section can, by relabeling or other action, be brought into compliance with the Act or rendered other than a food, drug, device, or cosmetic, final determination as to admission of such article may be deferred and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Secretary may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected articles or portions thereof, as may be specified in the Secretary's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Department of Health, Education, and Welfare designated by the Secretary, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury.

(c) All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under the provisions of subsection (b) of this section, the amount of such expenses to be determined in accordance with regulations, and all expenses in connection with the storage, cartage, or labor with respect to any article refused admisson under subsection (a) of this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

(d) A food, drug, device, or cosmetic intended for export shall not be deemed to be adulterated or misbranded under this Act if it (1) accords to the specifications of the foreign purchaser, (2) is not in conflict with the laws of the country to which it is intended for export, and (3) is labeled on the outside of the shipping package to show that it is intended for export. But if such article is sold or offered for sale in domestic commerce, this subsection shall not exempt it from any of the provisions of this Act. Nothing in this subsection shall authorize the exportation of any new animal drug, or an animal feed bearing or containing a new animal drug, which is unsafe within the meaning of section 512 of this Act.] *or to authorize the exportation of any device which does not comply with section 513 or 514 of this Act. The Secretary may permit exportation of any article if he determines that such exploration is in the interest of public health and safety, and has the approval, of the country to which it is intended for export.*

CHAPTER IX—MISCELLANEOUS

* * * * *

EFFECT ON STATE REQUIREMENTS

SEC. 903. (a) Whenever a performance standard pursuant to section 513 or scientific review pursuant to section 514 under this Act is in effect, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same device unless such requirements are identical to the requirements of the Federal requirements.

(b) Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to a device for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal requirements.

(c) Upon application of a State or political subdivision thereof, the Secretary may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as he may impose) a proposed safety requirement described in such application, where the proposed requirement—

(1) imposes a higher level of performance than the Federal standard,

(2) is required by compelling local conditions, and

(3) does not unduly burden interstate commerce.

By Mr. PEARSON (for himself and Mr. INOUYE):

S. 511. A bill to authorize the Secretary of Commerce to engage in certain small business export expansion activities, and for other purposes. Referred to the Committee on Commerce.

SMALL BUSINESS EXPORT DEVELOPMENT ACT OF 1975

Mr. PEARSON. Mr. President, I introduce for appropriate reference, on behalf of myself and the distinguished Senator from Hawaii (Mr. INOUYE), a bill to authorize the Secretary of Commerce to engage in certain small business export expansion activities. I ask unanimous consent that the text of this bill, along with a section-by-section summary of its provisions, be printed in the RECORD immediately following these remarks.

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

Mr. PEARSON. Mr. President, the Secretary of Commerce reported on January 28 that the United States last year recorded its second-worst trade deficit in history. Imports exceeded exports by $3.07 billion during calendar year 1974. The record deficit was 1972, when our trade imbalance was $6.44 billion. These deficit conditions are recent in origin: the U.S. trade balance was favorable every year in this century until 1970. They do not reflect, moreover, a chronic inability of American business to compete abroad under current conditions. Had it not been for the three-fold increase in the price of imported petroleum products, the U.S. balance of trade during 1974 would have been in surplus some $14 billion.

Specifically, Mr. President, American manufacturers are competitive abroad. American labor is competitive because of high productivity. The United States consistently exports more manufactured products than it imports, although by a small margin.

In the 93d Congress 1st session, I introduced a bill to stimulate an expansion of export sales by small businesses. This legislation, S. 1007, 93d Congress, 1st session, represented a first-draft effort to establish an agency within the Federal Government mandated to assist, through technical advice and modest financial assistance, those small businesses which have export potential.

Under the leadership of the distinguished Senator from Hawaii (Mr. INOUYE), our Committee on Commerce conducted extensive hearings. The con-

cept contained in S. 1007 was refined and improved. As part of an omnibus export expansion bill, the Senate approved specific export assistance to small business, to be administered by an agency within the Department of Commerce. This Senate-passed bill, S. 1486, did not receive favorable action in the House of Representatives before adjournment sine die.

Mr. President, we offer today a bill which follows closely the provisions of S. 1486 relating to export assistance to small businesses. With the contributions of the Senator from Hawaii (Mr. INOUYE), who chairs the Subcommittee on Foreign Commerce and Tourism of the Commerce Committee, this measure now represents, in my judgment, a workable approach to meaningful assistance to small business with export potential.

Qualifying small businesses, under the bill, could form U.S. export associations. These associations would be corporations in the private sector, formed solely for the purposes of joint marketing efforts abroad.

The associations would be financed by member-firms posting escrow accounts, and the financing of associations could be supplemented by grants and loans from the newly established Federal Export Office within the Department of Commerce. No export association could receive more than one grant and one loan. No firm could belong to more than two export associations qualifying for assistance under the bill.

Mr. President, only about 4 percent of all American firms export goods or services. The remaining 96 percent of U.S. firms, large and small, compete with each other, but never abroad for new markets. This legislation would provide an opportunity for small businesses, as defined in the bill, to join together in sharing the cost of developing new markets for their products overseas.

The cost of the program will depend upon the number of companies which form associations and the financial commitment made by the companies themselves. The individual grants under the bill to export associations cannot exceed $75,000. The loans to associations cannot exceed the escrow account in dollar amount. No loan or grant would be made unless the director of the new Federal Export Office determined that there was a reasonable prospect for increased export sales.

Mr. President, I urge the Senate to approve this legislation, once again, in this Congress. I believe that this initiative will improve our balance of trade and balance of payments. It should stimulate job development in the American labor market. Its cost is controlled by being keyed to the commitment of American small businesses themselves, to participate in developing new overseas markets for American products. I urge that this bill be considered by our Committee on Commerce as soon as possible.

S. 511

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 "Small Business Export Development Act of 1975".

DEFINITIONS

SEC. 2. As used in this Act—

(1) "Agency of the Federal Government" means any department, agency, bureau, commission, or other office in the executive branch of the Federal Government; any independent agency or establishment of the United States, including a corporate primarily acting as an instrumentality of the United States; and any regional, State, or local agency which is empowered by Congress to issue standards, orders, permits, or other administrative regulations which may become effective without the necessity for approval by any other agency of the Federal Government.

(2) "Association" means a United States export association organized pursuant to section 6 of this Act.

(3) "Director" means the Director of the Office.

(4) "Export activity" means any activity which may, directly or indirectly, result in the sale of any American goods, products, or services in a foreign nation. The term includes, but is not limited to, advertising, marketing, publicity, and sales activity in any foreign nation; participation in trade exhibitions; product use familiarization; supplying samples, models, and technical data preparing bids on projects in foreign nations; operating market development and sales offices, showrooms, warehouses, repair or service centers in foreign nations; transportation services; and trade or documentation procedures.

(5) "Export group" means any combination of two or more persons organized and operating solely for the purpose of carrying on export trade.

(6) "Foreign commerce" means selling or providing goods, commodities, products, data, transportation, insurance, tourism, or other services, including export activity services, outside the United States.

(7) "Office" means the Federal Export Office established pursuant to section 3 of this Act.

(8) "Secretary" means the Secretary of Commerce.

(9) "Small business" means a corporation, partnership, joint venture, proprietorship, or other business entity which is independently owned and operated.

(10) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

(11) "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, America Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

UNITED STATES FEDERAL EXPORT OFFICE

SEC. 3. (a) ESTABLISHMENT.—There is hereby established in the Department of Commerce an office to be known as the Federal Export Office.

(b) DIRECTOR.—The Office shall be administered and supervised by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall receive compensation at the rate now and hereafter prescribed for offices and positions at level V of the Executive Schedule (5 U.S.C. 5316).

(c) DEPUTY DIRECTOR.—The Director shall appoint a Deputy Director, who shall serve as Acting Director during any period of absence or incapacity of the Director and who shall carry out any duties delegated or assigned to him by the Director. The Deputy Director shall receive compensation at a rate now and hereafter prescribed for offices and positions at level of GS–18 on the General Schedule (5 U.S.C. 5332).

(d) INTERMITTENT SERVICES.—The Director may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. Persons so employed shall receive compensation at a rate to be fixed by the Office, but not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services for the Office, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(e) ASSISTANCE AND COOPERATION.—The Office, subject to the provisions of existing law, may secure from any agency of the Federal government such information as it may deem necessary to carry out the purposes of this Act.

Upon request of the Director, each such agency is authorized to furnish such information to the Office on a reimbursable basis or otherwise. The provisions of section 1905 of title 18, United States Code, shall apply to the Office, its officers and employees, with respect to information obtained under this subsection or in any other manner. The Office shall not release, without written permission of each person to whom it relates, any information described in section 552(b) of title 5, United States Code.

(f) REORGANIZATION.—The Secretary is authorized, after investigation, to transfer the whole or a part of the functions of any agency of the Federal Government subject to his jurisdiction to the Office, upon the preparation of a reorganization plan for the making of the reorganizations as to which he has made findings and which he includes in the plan and the submission of such plan to Congress together with a declaration that such reorganization is necessary or appropriate to further the purposes of this Act: *Provided,* That such reorganization plan shall not become effective if either House of Congress within sixty days after the date of transmittal passes a resolution stating in substance that such House does not favor the reorganization plan.

DUTIES OF OFFICE

SEC. 4. (a) GENERAL.—The Office shall, in coordination with other agencies of the Federal Government—

(1) foster the development of United States export associations composed of businesses which have not actively engaged in substantial export activities or which, in the opinion of the Director, may have potential for further export activities;

(2) survey and identify small businesses which possess undeveloped export potential and which are interested in joining with other small businesses in United States export associations;

(3) obtain operating and other business information from such small businesses, from export management concerns, export groups, and from any other person engaged in exporting in order to provide assistance and advice to such small businesses, export groups, or persons engaged in exporting, with respect to the identification of products which have export potential, the combination of products for efficient exportation, and the development of export markets;

(4) provide technical assistance, advice, and financial support through grants and loans in accordance with the provisions of section 7 of this Act;

(5) provide institutional leadership to bring together small businesses who are interested in undertaking export activities through the formation of associations and provide assistance in the formation of such associations;

(6) encourage the use of export management companies and export management personnel by associations wherever appropriate; and engaged in exporting in order to provide assistance and advice to such small businesses, export groups, or

(7) establish and conduct programs for the development of technical, professional, and managerial skill necessary to the establishment and operation of associations and necessary to successful operations by persons engaged in export activities, and for the development of liaison between the Office, United States export associations, and international financial, investment, and marketing institutions.

(b) ANNUAL REPORT.—The Director shall, not later than ninety days after the end of each fiscal year, make a report in writing to the Congress and the President on the activities of the Office during the preceding fiscal year. The report shall include, but need not be limited to, the following:

(1) the number of associations operating under this Act during the fiscal year;

(2) the number of companies which are members of associations;

(3) the amount and purpose of grants and loans provided;

(4) an evaluation of the success in increasing exports of firms which have formed associations; and

(5) any recommendations, including recommendations for legislation, which may be necessary or desirable to improve export performance.

POWERS OF THE OFFICE

SEC. 5. The Office is authorized—

(a) to adopt a seal, which, shall be judicially recognized;

(b) to issue such rules and regulations as it deems necessary and appropriate to carry out the provisions of this Act;

(c) to the extent necessary or appropriate to further the policy of this Act, to acquire and maintain property (real, personal, or mixed, tangible, or intangible, or any interest therein) by purchase, lease, condemnation, or in any other lawful manner; to sell, lease, or otherwise dispose of such property in any manner; and to construct, operate, lease, and maintain buildings, facilities, or other improvements on such property;

(d) to accept gifts or services in any form;

(e) to collect, analyze, and publish data and information related to exports and export promotion; to maintain such information offices and answering services as the Director determines necessary to give prompt, accurate, and meaningful responses to questions from potential exporters; and to maintain a continuous market survey of the most profitable export opportunities for American goods, products, and services. To the extent possible, the Office shall utilize programs, data, and information already available in other agencies of the Federal Government. The Office shall provide liaison at an appropriate organizational level to insure coordination of its activities with such other agencies.

(f) to enter into contracts or other arrangements or modifications thereof, with any person, any agency of the Federal government, and any State government or political subdvision thereof;

(g) to make advance or other payments which the Director deems necessary or appropriate to further the policy of this Act;

(h) to take such other action as may be necessary to carry out the provisions of this Act.

UNITED STATES EXPORT ASSOCIATIONS

SEC. 6. (a) ELIGIBLE BUSINESSES.—Upon application in writing by a small business, the Office shall certify such business as eligible to participate in a United States export association if—

(1) its average annual sales during the five calendar years preceding the year in which such application is made were less than $30,000,000;

(2) not more than 5 per centum of its average annual sales during such period consisted of sales to foreign markets, not including Canada and Mexico, except insofar as the Director determines that such small business has the potential for substantially increased export activities;

(3) it is not already a member of more than one United States export association; and

(4) the Director determines that membership in an association would probably increase the export sales of such business.

(b) FORMATION.—Three or more businesses, which have been certified as eligible businesses under this section may combine for the limited purpose of forming a United States export association subject to the provisions of this title. Such an association shall be a corporation operating as a cooperative marketing entity exclusively to—

(1) engage in export activities; and

(2) provide members of such associations with appropriate international trade assistance and export activity services, including but not limited to—

(A) identification of foreign markets for the goods, products, and services sold by such members;

(B) promotion of goods, products, and services sold by such members in foreign markets; and

(C) assistance to such members in the technical aspects of exporting, such as obtaining necessary licenses, financing, and guarantees.

(c) QUALIFICATION.—A United States export association formed in accordance with the requirements of subsections (a) and (b) of this section may qualify for assistance from the Office if—

(1) the association is composed of at least three businesses, each of which has been certified as an eligible business under this section;

(2) the association files an application for qualification with the Office. Such application shall be presented in such manner and shall contain such information as the Director may require. Each application shall provide that—

(A) any assistance received pursuant to this Act shall be used exclusively for the purposes authorized under this Act;

(B) the association and each of its members agree to observe any rules and regulations promulgated under this Act;

(3) each business which is a member of the association has paid not less than $1,000 into a common escrow account; and

(4) the association has appointed a chief executive officer who demonstrates to the satisfaction of the Director that he is qualified to direct the export activities of the association, or the association has retained an export management firm which demonstrates to the satisfaction of the Director that it is qualified to carry out such export activities.

(d) LIABILITY.—A United States export association formed and qualified under this section shall be liable to the United States for repayment of the full principal, interest, and any penalty due on any loan received from the Office. If such association breaches such obligation, in whole or in part, each of the businesses which is a member of such association shall be directly liable, jointly and severally with the other members, for repayment of the loan, including any unpaid principal, interest, and penalty amounts. Termination of membership in such an association on the part of any business shall not operate to terminate the liability of such business for association debts as of the date of withdrawal.

(e) ANTITRUST LAWS UNIMPAIRED.—Nothing in this Act shall be construed to modify or repeal any provision of any of the antitrust laws of the United States, including any laws prohibiting restraints of trade, unfair trade practices, or impairment of competition.

OFFICE ASSISTANCE TO ASSOCIATIONS

SEC. 7. (a) TECHNICAL ASSISTANCE GRANTS.—The Office is authorized to make a technical assistance grant to any United States export association which is formed and qualified under section 6 of this Act. The amount of such grant shall be not less than the amount of money in the common escrow account maintained by such association but not more than $75,000. Technical assistance grant funds may be used by such association for a period of not more than two years after the date of application for such grant to—

(1) secure expert advice and assistance in developing the operating agreements necessary to further export activities by members of such associations;

(2) finance management seminars and teaching programs for members of such associations with respect to operating export information, including export market analysis, export marketing, channels of export distribution, and identification of promising market areas for products;

(3) develop common catalogs and other marketing aids for such associations and its members; and

(4) develop such other operating export information as is determined by the Office to be appropriate.

(b) LOANS.—The Office is authorized to make a loan to any United States export association which is formed and qualified under section 6 of this Act. The amount of such loan shall be not in excess of the amount paid in by the members of such association to provide funds for the employment of management and other personnel and to provide working capital for the development of international representation of goods, products, and services sold by such members. The interest rate of such loan shall be not less than the average annual interest rate on all interest-bearing obligations of the United States having maturities of twenty years or more and forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan, adjusted to the nearest one-eighth of 1 per centum.

(c) LIMIT.—No United States export association (including any successor association or any association composed of substantially the same members) shall receive from the Office more than one technical assistance grant and one loan.

(d) RECORDS.—(1) Each recipient of Federal assistance under this section shall keep such records as the Office shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Director, in the administration of this section, shall minimize recordkeeping and documentation in a manner consistent with sound commercial and administrative practice and shall design rules and regulations, and requirements for reporting conduct of programs, recordkeeping, furnishing and compilation of data, inspection of documents, application requirements, and other such matters in such a manner as to reduce the cost of reporting, recordkeeping, and export documentation required.

(e) AUDIT AND EXAMINATION.—The Director and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (d) of this section, have access for the purpose of

audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director or the Comptroller General may be related to or pertinent to the assistance referred to in section 7 of this Act.

CONFORMING AMENDMENT

SEC. 8. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(134) Director, Federal Export Office."

AUTHORIZATION FOR APPROPRIATIONS

SEC. 9. There are hereby authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act $35,000,000 for each of the fiscal years ending in 1976, 1977, and 1978. Such sums are to remain available until expended.

SECTION-BY-SECTION SUMMARY: SMALL BUSINESS EXPORT DEVELOPMENT ACT OF 1975

Sec. 2. Definitions.

Sec. 3. Establishes a Federal Export Office as part of the Department of Commerce to be headed by a Director, appointed by the President by and with the advice and consent of the Senate. The Secretary is authorized to transfer to the Office and other related unit or function under his jurisdiction upon the preparation of a reorganization plan. Either House of Congress may veto any such reorganization plan within 60 days after its transmittal to the Congress.

Sec. 4. Lists the duties of the Office. The duties include promoting the development of "export associations" composed of relatively small businesses which have not engaged substantially in export sales operations or which, in the opinion of the Director, may have potential for further exports.

Sec. 5. Enumerates the powers of the Office, including the powers to issue rules and regulations, acquire and maintain property, collect and publish data related to export promotion, enter into contracts and adopt a seal.

Sec. 6. Establishes the criteria for membership in "export associations." Independently owned and operated small businesses may become members upon application if (1) their average annual sales during the previous five years were less than $30 million; (2) not more than 5 per cent of their sales were made to foreign countries excluding Canada and Mexico, except that this limitation may be waived if the Director determines that the business has good prospects for further sales; (3) they are not already members of more than one association; and (4) the Director determines that membership in an association would probably result in increased export sales.

The section provides that three or more eligible businesses may combine for the limited purpose of forming a United States export association, which shall be a corporation formed and organized to operate as a cooperative marketing entity exclusively to enter foreign markets and engage in export sales of American goods, products and services and to provide association members with trade assistance and export services.

An export association organized under this section may qualify for Federal assistance if the association is composed of three or more eligible member firms, the association files an application for qualification, each business member pays at least $1,000 into an escrow account, and the association appoints a qualified chief executive officer or export management firm to direct its export activities.

A United States export association shall be liable for repayment of any loan from the Office, and each individual member shall be directly liable, jointly and severally, for repayment of a loan.

Sec. 7. Provides for technical assistance grants to the associations formed under the Act in an amount not less than the escrow fund nor more than $75,000. The funds may be used for a variety of marketing functions outlined in the section.

The Office further is authorized to make loans to eligible export associations not to exceed the amount of the escrow account. Each U.S. export association will be eligible for one grant and one loan from the Office.

Audit and examination, and record keeping requirements for export associations, are provided for under this section.

Sec. 8. Conforming amendment.

Sec. 9. There are authorized to be appropriated to the Secretary of Commerce to carry out the purposes of the Act $35,000,000 for each of the fiscal years ending in 1976, 1977 and 1978. Such sums are to remain available until expended.

By Mr. HARRY F. BYRD, JR. (for himself, Mr. WILLIAM L. SCOTT, Mr. GRAVEL, Mr. HELMS, Mr. HUMPHREY, Mr. NUNN, Mr. THURMOND, Mr. TOWER, and Mr. MATHIAS):

S.J. Res. 23. A joint resolution to restore posthumously full rights of citizenship to Gen. R. E. Lee. Referred to the Committee on the Judiciary.

ROBERT E. LEE

Mr. HARRY F. BYRD, JR. Mr. President, early in the 92d Congress, I introduced legislation to restore posthumously the full rights of citizenship of Gen. Robert E. Lee.

That legislation was prompted by the discovery in the National Archives in 1970 of the bona fide amnesty oath signed by General Lee. The resolution, unfortunately, was not acted upon before the 92d Congress adjourned, nor was it considered by the Senate during the 93d Congress.

Today, nearly 4 years after its original introduction, I am reintroducing this measure.

Again, I can say, as a Virginian, I take this step with much pride and, this year, with much hope that final and favorable action will be taken on what General Lee himself requested. And I would again call to the attention of the Senate that this belated action is not sectional in nature, but rather is a step that should have been taken by the Nation as a whole long ago.

I could, of course, speak at great length on the subject of General Lee's ability as a military commander and his deeds in the service of Virginia and the South. I would rather emphasize to the Senate the sterling character of General Lee, which has stood as an unequaled example of gentlemanly demeanor, both in victory and adversity.

Historians have long recognized the beneficial effects of General Lee's conduct subsequent to the War Between the States.

Instead of harboring bitterness in his heart, General Lee, both by word and deed, put his full effort into healing the wounds of that tragic conflict. His actions represented the noblest attributes of our national character and were in full accord with the fervent desire for peaceful reunion so eloquently expressed by President Lincoln.

I regard President Lincoln and General Lee as two of our greatest Americans. Their character, their leadership, their courage, and their ability will stand as a monument for all time.

Only 2 months after the surrender of the Army of Northern Virginia at Appomattox Court House, General Lee on June 13, 1865, applied to President Johnson for amnesty and restoration of his rights as a citizen, pursuant to the President's Amnesty Proclamation of May 29, 1865.

In furtherance of the conciliatory spirit and fairness he displayed to General Lee and his soldiers at Appomattox Court House, Gen. Ulysses S. Grant graciously forwarded the request to the President on June 20, 1865. Always have I been impressed with the magnanimity of General Grant. The endorsement of General Lee's application for amnesty and pardon follows:

Respectfully forwarded through the Secretary of War to the President, with the earnest recommendation that this application of General R. E. Lee for amnesty and pardon may be granted him. The oath of allegiance required by recent order of the President to accompany applications does not accompany this for this reason, as I am informed by General Ord, that the order requiring it has not reached Richmond when this was forwarded.

Unknown to General Lee on June 13, when he requested amnesty and restoration of citizenship, was the requirement that an oath of allegiance accompany such a request.

The next several months in General Lee's life were busy ones; during this period, he moved to Lexington, Va., and became president of what was then Washington College, the institution which is now Washington and Lee University.

On October 2, 1865, General Lee, as an example to the people of the South, laid aside his role as a military leader and became a leader of young men. On that day he was inaugurated president of Washington College and dedicated the remaining years of his life to preparing young men to be servants of the reunited States of the Union.

On that same day, General Lee, apparently having become aware of the requirement of an amnesty oath, appeared in Lexington before Charles A. Davidson, a notary public for the County Rockbridge, Va., to whom he gave the following oath:

I, Robert E. Lee, of Lexington, Virginia, do solemnly swear, in the presence of Almighty God, that I will henceforth faithfully support, protect and defend the Constitution of the United States, and the Union of the States thereunder, and that I will, in like manner, abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves, so help me God.—Signed, R. E. Lee.

I believe we can safely assume that had this oath reached the hands of the President, that General Lee's citizenship would have been restored in full. But it was lost for quite some period of time, and was discovered only a few years ago.

In the 1970 winter issue of Prologue, the journal of the National Archives, Mr. Elmer O. Parker wrote an excellent article describing the discovery of General Lee's oath among the State Department records of the National Archives. Ap-

parently the oath was submitted separately and was never joined to General Lee's request of June 13, 1865.

I recite these facts again to the Senate in order to show that General Lee fulfilled every requirement for the restoration of his citizenship.

Since reintroducing this legislation on February 21, 1974, in the 93d Congress, I have been most fortunate to have supplied to me by Elmer Oris Parker additional pieces in the puzzle of Lee's application for amnesty and pardon, shrouded for over a century by time, with a sprinkling of human intervention. Mr. Parker spins a fascinating tale of mischance and intrigue, bound together with his meticulous research, as he notes:

After discovering General Lee's amnesty oath in the National Archives, I undertook to find his original application for pardon and if it could be located to write a follow-up article for *Prologue*.

* * * * *

General Lee was particularly anxious to have President Johnson act on his application for amnesty so that he, as administrator, could close out the estate of his father-in-law, George Washington Parke Custis, and dispose of "Arlington" to the advantage of the Custises and Lees. General Lee complained of his predicament to Johnson on July 7, 1866,: "If it was not for the interest of others which is involved, I should have no anxiety in the matter but I should not like them to suffer on my account."

It was not until twelve years after Lee's death that the Supreme Court gave title to the family. The President never took any action on Lee's application for an individual pardon and the General remained unpardoned until Johnson proclaimed universal amnesty on December 25, 1868.

This, however, did not relieve Lee of the disability provided in the third section of the 14th Amendment, ratified July 26, 1868. This section denied Lee, and others similarly situated, the full rights of citizenship until the disability was removed by Congress.

Had General Lee still been alive on June 6, 1898, when the Act was approved to remove the disability imposed by the third section of the 14th Amendment (30 Stat. 432), his citizenship I believe would have been restored but the Act had no posthumous application. Therefore, contrary to the arguments of the opponents, the question is not moot. Further, who can doubt the correctness of Doctor Douglas Southall Freeman's statement that Lee "can stand the scrutiny of all critics without losing any nobility of his character."

* * * * *

War Department records (Record Group 94, file R&P 620737/562822, record cards) indicated that a Philadelphia publisher, Charles H. Walsh, in October, 1899, offered to sell General Lee's original letter, with General Grant's indorsement, to the War Department for $100, but the Department declined the offer.

. . . (I)t was claimed that the letter was presented by Secretary of State Seward to a General Daniel Sullivan, in whose family it remained until Walsh obtained it from the General's grandson.

The search was long and led me up blind alleys until it was found in the custody of the Illinois State Historical Library . . .

. . . General Lee's letter to President Johnson in his well-known chirography, together with his covering letter to General Grant, and General Grant's indorsement . . . bear the official file designation, L 29 AUS 1865", which according to War Department records in the National Archives was assigned them when they were received at Grant's Headquarters of the Army on June 16, 1865.

Before having an opportunity to write this story I retired. Since then I have often been queried about the existence of the original of General Lee's application for amnesty and I have declined to discuss it, feeling that a better purpose could be served by furnishing what information I have on the subject to the Senator who might profitably use it to secure passage of his resolution.

Hence, I am forwarding it to you.

As is known to many, on February 15, 1869, the outstanding treason indictments against General Lee, his sons, and 14 other general officers of the Confederacy, were dismissed by the United States.

Thus, the only bar to the citizenship of General Lee is the third section of the 14th amendment to the Constitution, which provides that no person who has previously taken an oath as an officer of the United States and is subsequently engaged in rebellion against the same, can hold office. The amendment provides that Congress, by a two-thirds vote of each House, can remove such a disability.

Mr. President, since I originally introduced this legislation in the 92d Congress, the alternative of present-day Executive pardon has been suggested as a means for more expeditious handling of this matter.

I am advised that the necessity for congressional action—by the legislative process established under the third section of the 14th amendment to the Constitution—has been indicated by both the White House, through the office of the Counsel to the President, and by the Department of Justice, through the Office of the Deputy Attorney General.

Mr. President, I feel that Congress should act now to restore the full rights of citizenship to one of the greatest Americans of all time.

This month, January 19, marks the 168th anniversary of the birth of Robert E. Lee. Certainly no finer tribute to his memory and his greatness could be paid than to set the record straight, and in the manner which had his very oath of approval.

I am asking that General Lee be granted what he in writing sought.

Mr. MATHIAS. Will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield to the able Senator from Maryland.

Mr. MATHIAS. I am impressed by the remarks made by the distinguished Senator from Virginia and I wonder if the Senator would allow me the privilege of cosponsoring the resolution with him?

Mr. HARRY F. BYRD, JR. The Senator from Virginia would be very willing to have the senior Senator from Maryland as a cosponsor and will add his name at this point.

Mr. President, following my remarks, I ask unanimous consent that the joint resolution which I am introducing for myself and for Mr. WILLIAM L. SCOTT, Mr. GRAVEL, Mr. HELMS, Mr. HUMPHREY, Mr. NUNN, Mr. THURMOND, Mr. TOWER, and Mr. MATHIAS, be published in full in the RECORD.

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

Mr. HARRY F. BYRD, JR. I also ask unanimous consent that a copy of General Lee's letter of June 13, 1865, to President Johnson; his letter of the same date to General Grant; General Grant's endorsement of June 16, 1865; General Grant's letter to General Lee of June 20, 1865; a copy of the oath itself; a copy of the article by Mr. Parker; and a copy of the War Department's record cards be printed in the RECORD at this point.

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

RICHMOND, VA., *June 13, 1865.*

His Excellency ANDREW JOHNSON

DEAR SIR: Being excluded from the provisions of the amnesty and pardon in the proclamation of the 29th ult., I hereby apply for the benefits and full restoration of all rights and privileges extended to those enclosed in its terms. I graduated at the Military Academy at West Point in June 1829; resigned from the United States Army, April, 1861; was a general in the Confederate Army, and included in the surrender of the Army of Northern Virginia, April 9, 1865. I have the honor to be, very respectfully.

Your obedient servant,

R. E. LEE.

RICHMOND, *June 13, 1865.*

Lieut. Gen. U.S. GRANT,

Commanding Armies of the United States:

GENERAL: Upon reading the President's proclamation of the 29th ultimo, I came to Richmond to ascertain what was proper or required of me to do, when I learned that with others I was to be indicted for treason by the grand jury at Norfolk. I had supposed that the officers and men of the Army of Northern Virginia were, by the terms of their surrender, protected by the United States Government from molestation so long as they conformed to its conditions. I am ready to meet any charges that may be preferred against me. I do not wish to avoid trial, but if I am correct as to the protection granted by my parole, and am not to be prosecuted, I desire to comply with the provisions of the President's proclamation, and therefore inclose the required application, which I request in that event may be acted on.

I am, with great respect, your obedient servant,

R. E. LEE.

[Indorsement]

HEADQUARTERS ARMIES
OF THE UNITED STATES,
June 16, 1865.

In my opinion the officers and men paroled at Appomatox Court House, and since, upon the same terms given to Lee, cannot be tried for treason so long as they observe the terms of their parole. This is my understanding. Good faith, as well as true policy, dictates that we should observe the conditions of that convention. Bad faith on the part of the Government, or a construction of that convention subjecting officers to trial for treason, would produce a feeling of insecurity in the minds of all the paroled officers and men. If so disposed they might even regard such an infraction of terms by the Government as an entire release from all obligations on their part. I will state further that the terms granted by me met with the hearty approval of the President at the time, and of the country generally. The action of Judge Underwood, in Norfolk, has already had an injurious effect, and I would ask that he be ordered to quash all indictments found against paroled prisoners of war, and to desist from further prosecution of them.

U. S. GRANT,
Lieutenant-General.

HEADQUARTERS ARMIES
OF THE UNITED STATES,
Washington, June 20, 1865.

General R. E. LEE,
Richmond, Va.:

Your communications of date of the 13th instant, stating the steps you had taken after reading the President's proclamation of the 29th ultimo, with a view of complying with its provisions when you learned that, with others, you were to be indicted for treason by the grand jury at Norfolk; that you had supposed the officers and men of the Army of Northern Virginia were by the terms of their surrender protected by the United States Government from molestation so long as they conformed to its conditions; that you were ready to meet any charges that might be preferred against you, and did not wish to avoid trial, but that if you were correct as to the protection granted by your parole, and were not to be prosecuted, you desired to avail yourself of the President's amnesty proclamation, and enclosing an application therefor, with the request that in that event it be acted on, has been received and forwarded to the Secretary of War, with the following opinion endorsed thereon by me:

"In my opinion that officers and men paroled at Appomattox Court-House, and since, upon the same terms given to Lee, cannot be tried for treason so long as they observe the terms of their parole. This is my understanding. Good faith, as well as true policy dictates that we should observe the conditions of that convention. Bad faith on the part of the Government, or a contraction of that convention subjecting the officers to trial for treason, would produce a feeling of insecurity in the minds of all the paroled officers and men. If so disposed they might even regard such an infraction of terms by the Government as an entire release from all obligations on their part. I will state further that the terms granted by me met with the hearty approval of the President at the time, and of the country generally. The action of Judge Underwood, in Norfolk, has already had an injurious effect, and I would ask that he be ordered to quash all indicts found against paroled prisoners of war, and to desist from the further prosecution of them."

This opinion, I am informed, is substantially the same as that entertained by the Government. I have forwarded your application for amnesty and pardon to the President, with the following endorsement thereto:

"Respectfully forwarded through the Secretary of War to the President, with the earnest recommendation that this application of General R. E. Lee for amnesty and pardon may be granted him. The oath of allegiance required by recent order of the President to accompany applications does not accompany this for the reason, as I am informed by General Ord, the order requiring it had not reached Richmond when this was forwarded.

U. S. GRANT,
Lieutenant-General."

OFFICE OF NOTARY PUBLIC,
Rockbridge County, Va., October 2, 1865.

AMNESTY OATH

I, Robert E. Lee of Lexington, Virginia, do solemnly swear, in the presence of Almighty God, that I will henceforth faithfully support, protect and defend the Constitution of the United States, and the Union of the States thereunder, and that I will, in like manner, abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves, so help me God.

R. E. LEE.

Sworn to and subscribed before me, this 2nd day of October 1865.

CHAS. A. DAVIDSON,
Notary Public.

WHY WAS LEE NOT PARDONED?

(By Elmer Orls Parker)

Achivists have recently discovered Robert E. Lee's oath of amnesty among State Department records in the National Archives. To those historians of the Civil War and Reconstruction who believe that Lee did not satisfy the requirements for amnesty this may come as a surprise.

Facing an indictment for treason, Lee read in Richmond newspapers President Andrew Johnson's proclamation of May 29, 1865, "to induce all persons to return to their loyalty." Lee immediately informed Gen. Ulysses S. Grant that he wanted to comply with the provisions of the proclamation and enclosed "the required application." It was not in order for it was not accompanied by an oath of allegiance to the United States. Such an oath was required by an order of the President. Lee's action was premature.

General Grant attempted to justify the absence of the oath. He explained to the President that Gene. E. O. C. Ord, commanding the Department of Virginia at Richmond, informed him that the order requiring it had not reached the city when Lee's application was forwarded. Grant, therefore, earnestly recommended that amnesty and pardon be granted the old warrior.

Meanwhile, Lee had been elected president of Washington College and had proceeded on "Traveller" by easy paces to Lexington where he was inaugurated on October 2. This was an important day in his life. Not only did he take up the life of a useful citizen, he also subscribed to the amnesty oath, thereby complying fully with the provisions of Johnson's proclamation. Thus, Lee had every reason to expect he would be pardoned and restored to full citizenship.

But this never happened. Secretary of State William H. Seward gave Lee's application to a friend as a souvenir and his oath was evidently pigeonholed. Although attempts have been made in recent years to have Congress restore Lee's citizenship posthumously, all have come to naught. As far as was known Lee, after laying down his arms at Appomattox, had not sworn "to support, protect and defend the Constitution of the United States." But the discovery of his oath of amnesty proves that he had indeed done so. Furthermore, he had also sworn to "faithfully support all laws and proclamations made during the rebellion with reference to the emancipation of slaves." Lee's oath was duly executed, signed, and notarized, and for a century it has remained buried in a file in the nation's archives.

[530058, 620737, Record and Pension Office, Oct. 26, 1899, 562822]

Subject: Letter of Gen. R. E. Lee endorsed by Gen. U. S. Grant.

From: Charles H. Walsh, 1037 Walnut Street, Phila., Pa.

Date of Communication: Oct. 6, 1899.

Purport of Communication: Offers orig. letter from Gen R. E. Lee; endorsed by Gen. U. S. Grant requesting to be considered in Gen. Order of pardon and amnesty for sale at $100. This letter was presented to Maj. Genl. Daniel Sullivan by Sec. Seward and has always remained in the possession of the family until obtained by writer from grandson—Letter addressed to Supt. of Naval War Records & referred to State Dept. & then to the War Dept.

M. KIRKLEY.

Is this a matter for your consideration.

/s/ (Illegible).

By reference to Vol. XLVI, Part III, pp. 1275, 1276 and 1287, of the published War Records, it will be seen that we have a record of the transactions, amply sufficient, it is believed, for all historical purposes. The last paragraph of Grant's letter to Lee, on page 1287, supplies all essential information on the subject. Lee's application for amnesty and pardon did not require action of the War Department. The paper properly belonged to the State Department, to which it probably was referred by the President after its receipt by him from General Grant.

Respectfully,

OCT. 26/99.

J.W.K."

Seen by Genl. Ainsworth who directs that the writer be informed that this Department has no money to purchase records of any kind.

/s/ (Illegible).

Ret. No. 562,822. by a copy of the Indorsement recorded below. No. of Inclosures to accompany paper:—

R.C.E., Correspondent.
(Illegible initials), Examiner.
Done Oct. 26, 1899, by HLC.

INDORSEMENT

Respectfully returned to Mr. Charles H. Walsh, Publisher, No. 1037 Walnut St., Philadelphia, Pa., with the information that this Dept. has no fund at its disposal with which to purchase records of any kind.

By authority, etc.,
Chief, etc.,

(ERR).

Mr. HARRY F. BYRD, JR. I have recently seen a copy of the editorial, entitled "Citizenship for General Lee", which was published in the Richmond News Leader on January 20, 1975. Ross Mackenzie, editor of the editorial page, again recounts the details of the efforts to restore full rights of citizenship to Gen. Robert E. Lee and has called on the bicentennial Congress to take action on this matter. I ask unanimous consent that Mr. Mackenzie's editorial be printed in the RECORD at this point.

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

CITIZENSHIP FOR GENERAL LEE

Yesterday marked the 168th anniversary of the birth of Robert Edward Lee at Stratford in Westmoreland County; he died more than 104 years ago, on October 12, 1870. Yet when he died, he had not been restored to the full citizenship to which he was indisputably entitled. Numerous efforts to restore his citizenship posthumously have failed. The latest effort was a joint resolution introduced in the last session of Congress by Senator Harry F. Byrd, Jr. The resolution was sent to the Senate Judiciary Committee, where it languished and—ultimately—died. Senator Byrd currently is exploring with members of the Committee how best to proceed this year.

The evidence supporting restoration of full citizenship to General Lee—some of that evidence discovered only in the past several years—is unequivocal. The essential evidence is this:

On April 9, 1865, General Lee surrendered the Army of Northern Virginia to General Ulysses Grant at Appomattox Court House. The War Between the States was over. On May 29 of that year, President Andrew Johnson signed a proclamation granting amnesty to practically everyone who had taken up arms against the North. On June 13, 1865, General Lee wrote to President Johnson from Richmond: "Sir: Being excluded from the provisions of the amnesty and pardon contained in the proclamation of the 29th ult., I hereby apply for the benefits and full restoration of all rights and privileges extended

to those included in its terms." General Lee sent his letter to General Grant, who forwarded it to President Johnson with—in General Grant's words—"the earnest recommendation that this application . . . be granted him."

Apparently both General Lee and General Grant were unaware on June 13 that an oath renewing one's allegiance to the United States must accompany such a request. At any rate, and perhaps for that reason, President Johnson never took any action on General Lee's request. Because of the apparent absence of an oath, for a century every attempt to restore full citizenship to General Lee went nowhere. Then about five years ago a researcher digging through records in the National Archives discovered a notarized oath of renewed allegiance signed by General Lee on October 2, 1865. In the oath [see below] General Lee said:

"I, Robert E. Lee, of Lexington, Virginia, do solemnly swear, in the presence of Almighty God, that I will henceforth faithfully support, protect and defend the Constitution of the Unted States, and the Union of the States thereunder, and that I will, in like manner, abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves, so help me God."

It is obvious that between June 13 and October 2, General Lee learned of the need for an oath. No one could ask for a more straightforward statement of allegiance to the United States. Yet the fate of the oath after General Lee signed it is unknown—except that somehow it found its way into the National Archives, there to reside for 100 years.

On February 15, 1869, the government dismissed several treason indictments against General Lee, his sons, and 14 other general officers of the Confederacy. Thereby, the government removed the only remaining bar to the full restoration of General Lee's citizenship. According to several legal opinions, however, only Congress—by a two-thirds vote of each house—can restore full citizenship to him.

In the words of Senator Byrd, General Lee "has stood as an unequaled example of gentlemanly demeanor, both in victory and adversity, [and he has fulfilled] every requirement for the restoration of his citizenship." Last February 7, in a resolution adopted by acclamation, the Virginia General Assembly said that "the legal disabilities placed upon General Lee as a result of his service as General of the Army of Northern Virginia should be removed, and [he] should be posthumously restored to the full rights of citizenship, effective June 13, 1865, by the Congress of the United States."

General Lee died a man without a country. As he said soon after the war, "I believe it to be the duty of every man to unite in the restoration of the country and the re-establishment of peace and harmony," so it is the duty of Congress to restore the full measure of his rights to him, albeit posthumously. We urge Senator Byrd not to relent in this matter. And we urge this bicentennial Congress to follow the Senator's lead.

GENERAL LEE'S OATH

I, Robert E. Lee, of Lexington, Virginia, do solemnly swear, in the presence of Almighty God, that I will henceforth faithfully support, protect and defend the Constitution of the United States, and the Union of the States thereunder, and that I will, in like manner, abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves, so help me God.—Signed, R. E. Lee.

S.J. RES. 23

Whereas this entire Nation has long recognized the outstanding virtues of courage, patriotism, and selfless devotion to duty of General R. E. Lee, and has recognized the contribution of General Lee in healing the wounds of the War between the States, and

Whereas, in order to further the goal of reunion of this country, General Lee, on June 13, 1865, applied to the President for amnesty and pardon and restoration of his rights as a citizen, and

Whereas this request was favorably endorsed by General Ulysses S. Grant on June 16, 1865, and

Whereas, General Lee's full citizenship was not restored to him subsequent to his request of June 13, 1865, for the reason that no accompanying oath of allegiance was submitted, and

Whereas, on October 12, 1870, General Lee died, still denied the right to hold any office and other rights of citizenship, and

Whereas a recent discovery has revealed that General Lee did in fact on October 2, 1865, swear allegiance to the Constitution of the United States and to the Union, and

Whereas it appears that General Lee thus fulfilled all of the legal as well as moral requirements incumbent upon him for restoration of his citizenship: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3 of amendment 14 of the United States Constitution, the legal disabilities placed upon General Lee as a result of his service as General of the Army of Northern Virginia are removed, and that General R. E. Lee is posthumously restored to the full rights of citizenship, effective June 13, 1865.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 2

At the request of Mr. PROXMIRE, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 2, a bill to amend the Communications Act of 1934 in order to recognize and confirm the applicability of and to strengthen and further the objectives of the First Amendment to radio and television broadcasting stations.

S. 5

At the request of Mr. CHILES, the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 5, the Federal Government-in-the-Sunshine Act.

S. 131

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 131, a bill to authorize the Secretary of the Interior to enroll certain Alaskan Natives for benefits under the Alaska Native Claims Settlement Act and for other purposes.

S. 350

At the request of Mr. CURTIS, the Senator from Nebraska (Mr. HRUSKA) was added as a cosponsor of S. 350, a bill to authorize the Secretary of the Interior to cancel certain obligations, and to construct, operate and maintain certain works in connection with the Marage Flats Irrigation project, and for other purposes.

S. 445

At the request of Mr. HUGH SCOTT, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 445, a bill to assure that an individual or family whose income is increased by reason of a general increase in monthly social security benefits, will not, because of such general increase, suffer a loss or a reduction in the benefits the individual or family has been receiving under certain Federal or federally assisted programs.

SENATE JOINT RESOLUTION 12

At the request of Mr. KENNEDY, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Journal Resolution 12, to delay the imposition of oil import fees and higher oil prices.

SENATE RESOLUTION 9

At the request of Mr. CHILES, the Senator from Kansas (Mr. DOLE), the Senator from California (Mr. TUNNEY), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of Senate Resolution 9, to amend the Senate Rules.

SENATE RESOLUTION 45—SUBMISSION OF A RESOLUTION RELATIVE TO THE REFERRAL OF MESSAGES CONCERNING THE BUDGET

(Referred to the Committee on Rules and Administration.)

Mr. MCCLELLAN (for himself, Mr. MUSKIE, Mr. YOUNG, and Mr. BELLMON) submitted the following resolution:

S. RES. 45

Resolved,

1. That messages received pursuant to title X of the Congressional Budget and Impoundment Control Act be referred concurrently to the Appropriations Committee, to the Budget Committee, and to any other appropriate authorizing committee.

2. That bills and resolutions introduced with respect to such messages shall be referred to the Appropriations Committee, the Budget Committee, and pending implementation of section 401 of the Congressional Budget Impoundment Control Act and subject to section 401(d), to any other committee exercising jurisdiction over contract and borrowing authority programs as defined by section 401(c)(2)(A) and (B). The Budget Committee and such other committees shall report their views, if any, to the Appropriations Committee within 20 days following referral of such messages, bills, or resolutions. The Budget Committee's consideration shall extend only to macroeconomic implications, impact on priorities and aggregate spending levels, and the legality of the President's use of the deferral and rescission mechanism under title X. The Appropriations and authorizing committtees shall exercise their normal responsibilities over programs and priorities.

3. If any Committee to which a bill or resolution has been referred recommends its passage, the Appropriations Committee shall report that bill or resolution together with its views and reports of the Budget and any appropriate authorizing committees to the Senate within:

A. the time remaining under the Act in the case of rescissions, or

B. within 20 days in the case of deferrals.

4. The 20 day period referred to herein means 20 calendar days; and for the purposes of computing the 20 days, recesses or adjournments of the Senate for more than 3 days to a day certain shall not be counted; and for recesses and adjournments of more than 30 calendar days, continuous duration or the sine die adjournment of a session, the 20 day period shall begin anew on the day following the reconvening of the Senate.

SENATE RESOLUTION 46—SUBMISSION OF A RESOLUTION CONCERNING THE REFERRAL OF PROPOSED LEGISLATION AND OTHER MATTERS TO STANDING COMMITTEES

(Referred to the Committee on Rules and Administration.)

Mr. MANSFIELD submitted the following resolution:

S. Res. 46

Resolved, That Rule XXVI of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"3. (a) Whenever proposed legislation or any other matter which is to be referred to a standing committee broadly crosses or significantly involves the jurisdictions of one or more such committees, such proposed legislation or other matter shall be referred in accordance with the requirements of section 137 of the Legislative Reorganization Act of 1946, as amended, unless a motion is made to refer the proposed legislation or other matter under this paragraph.

"(b) Upon motion, when proposed legislation has been read a second time or when any other matter has been laid before the Senate, it may be referred to more than one standing committee. Such motion may direct joint or sequential referral with appropriate instructions as to further referrals, time allowed for consideration by a committee, and discharge of a committee from further consideration. The report filed by committees to which proposed legislation or other matter has been jointly referred shall be a joint report of such committees unless otherwise ordered by the Senate. A motion directing sequential referral of proposed legislation or other matter to more than one such committee shall provide that, upon the reporting of such proposed legislation or other matter by any such committee, it shall then be referred to the other such committee or committees which have not then reported it.

"(c) Notwithstanding any other rule, during the consideration of any proposed legislation or other matter which has been referred to more than one committee pursuant to a motion under this paragraph and which has been reported by such committees, an amendment proposed to an amendment proposed by any of such committees shall be in order."

SENATE RESOLUTION 47—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE ON SMALL BUSINESS

(Referred to the Committee on Rules and Administration.)

Mr. NELSON (for himself and Mr. JAVITS) submitted the following resolution:

S. Res. 47

Resolved, That the Select Committee on Small Business, in carrying out the duties imposed upon it by S. Res. 58, Eighty-first Congress, agreed to February 20, 1950, as amended and supplemented, is authorized to examine, investigate, and make a complete study of the problems of American small and independent business and to make recommendations concerning those problems to the appropriate legislative committees of the Senate.

SEC. 2. For purposes of this resolution, the committee, or any subcommittee thereof, is authorized from March 1, 1975, through February 29, 1976, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, (4) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, and (5) to provide assistance for the members of its professional staff in obtaining specialized training, in the same manner and under the same conditions as any such standing committee may provide that assistance under section 202(j) of such Act.

SEC. 3. The expenses of the committee under this resolution shall not exceed $263,000, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof, and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1976.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 48—SUBMISSION OF A RESOLUTION URGING CONTINUING EFFORTS IN BEHALF OF AMERICANS MISSING IN ACTION IN SOUTHEAST ASIA

(Referred to the Committee on Foreign Relations.)

Mr. SPARKMAN submitted the following resolution:

S. RES 48

Whereas, January 27, 1975 will mark the second anniversary of the signing of the Agreement on Ending the War and Restoring Peace in Vietnam signed in Paris on January 27, 1973; and

Whereas, the Laotian cease-fire protocols are now entering their second year; and

Whereas, both sides under the Vietnam agreement charged the other with violations of its provisions; and

Whereas, several important aspects of the Lao protocols have not been implemented; and

Whereas, in Cambodia there is not even the prospect of a cease-fire agreement; and

Whereas, the foregoing conditions have forestalled the implementation of Article 8 (b) of the Paris Agreement relating to the missing in action and resulted in the failure of any performance on the obligations contained in the Lao protocol which provide for an accounting for Americans missing in action:

Now, therefore,

Be it resolved that it is the sense of the Senate that the United States Government should ask all parties signatory to the Paris Agreement and to the Lao protocols to abide by their provisions.

SEC. 2. The President and the Secretary of State should continue to take the necessary steps, including such new negotiations as may be deemed necessary to obtain an honorable determination of the fate of all U.S. servicemen and civilians missing in Southeast Asia.

SEC. 3. The Secretary of the Senate is directed to transmit this resolution to the President who is requested to report to the Senate in 90 days on steps taken to implement the resolution.

OUR MIA'S: 2 YEARS AFTER THE PARIS AGREEMENT

Mr. SPARKMAN. Mr. President, 2 years ago with a sense of relief and expectation we celebrated the signing of the "Agreement on Ending the War and Restoring Peace in Vietnam." We believed that the long Indochina conflict was at last over. Our troops were already being withdrawn and we knew that our prisoners of war would soon be coming home.

Unfortunately, as we now know, many issues were left unresolved when we turned away from Indochina. Among the most distressing of these is the unresolved fate of our Americans missing in action.

The Paris agreement included many complicated reciprocal undertakings, many of which, absent any enforcement mechanism, were dependent upon the faith and good will of the vietnamese parties. Of particular interest to our MIA families was the undertaking on the part of the Vietnamese parties to provide information concerning those missing in action. It did not occur to us at the time that there would be any question of Hanoi's compliance with this aspect of the agreement.

Today, 2 years after the signing of the agreement, the families of our missing Americans have yet to receive any information concerning their loved ones. Worst of all, there seems to be so little that can be done about this situation.

A few weeks ago I received a letter from Mr. E. C. Mills, the executive director of the National League of Families of American Prisoners and Missing in Southeast Asia. In that letter Mr. Mills urged that I introduce a resolution on behalf of the MIA families. After consultation with my colleagues and those familiar with this problem I have drawn up the resolution which I am introducing today. I believe that it incorporates the principal features of the resolution suggested by the League of Families.

We know that this problem cannot be solved by passing another resolution. Such action, though, would signify our dedication to the proposition that our brave MIA families deserve an accounting for their loved ones.

We in the Congress and officials in the executive branch should continue as we have in the past to search for ways in which to obtain more information. If, as the League of Families has suggested, it is necessary for us to reopen our discussions with the North Vietnamese in order to facilitate this search, careful consideration should be given to that course of action.

I urge my colleagues to give careful consideration to this resolution and to the problem which it addresses.

SENATE RESOLUTION 49—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS

(Referred to the Committee on Rules and Administration.)

Mr. RIBICOFF, from the Committee on Government Operations, reported the following resolution:

S. RES. 49

Resolved, That, in holding hearings,, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Government Operations, or any subcommittee thereof, is authorized from March 1, 1975, through February 29, 1976, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent funds of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursement basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Government Operations, or any subcommittee thereof, is authorized from March 1, 1975, through February 29, 1976, to expend not to exceed $2,406,362 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) in accordance with such succeeding sections of this resolution.

SEC. 3. Not to exceed $239,200 shall be available for a study or investigation of—

(1) Budget and accounting measures, other than appropriations;

(2) Reorganizations in the executive branch of the Government;

(3) Reports of the Comptroller General of the United States and recommendations deemed necessary or desirable in connection with such reports;

(4) The operation of Government activities at all levels with a view to determining its economy and efficiency;

(5) The effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(6) The intergovernmental relationships between the United States and the States, municipalities, and international organizations, of which amount not to exceed $20,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 4. (a) Not to exceed $1,113,000 shall be available for a study or investigation of—

(1) The efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public: *Provided,* That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting that particular branch of the Government;

(2) The extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) Syndicated or organized crime which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions which are in violation of the law of the United States or of the State in which the transactions occur, and, if so, the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, what facilities, devices, methods, techniques, and technicalities are being used or employed, and whether or not organized crime utilizes such interstate facilities or otherwise operates in interstate commerce for the development of corrupting influences in violation of the law of the United States or the laws of any State, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activities have infiltrated into lawfulness business enterprise; and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against the occurrences of such practices or activities;

(4) All other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety;

(5) Riots, violent disturbances of the peace, vandalism, civil and criminal disorder, insurrection, the commisison of crimes in connection therewith, the immediate and longstanding causes, the extent and effects of such occurrences and crimes, and measures necessary for their immediate and long-range prevention and for the preservation of law and order and to insure domestic tranquillity within the United States;

(6) The efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents, and

(C) the adequacy of present intergovernmental relationships between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(7) The efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(L) research into the discovery and development of alternative energy supplies:

Provided, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting that particular branch of the Government;

of which amount not to exceed $20,000 may be expended for the procurement of the services of individual consultants or organizations thereof.

(b) Nothing contained in this section shall affect or impair the exercise by any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1975, through February 29, 1976, is authorized, in its, his, or their discretion, (1) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recesses, and adjournment periods of the Senate, (4) to administer oaths, and (5) take testimony, either orally or by sworn statement.

SEC. 5. Not to exceed $388,544 shall be available for a study or investigation of intergovernmental relationships between the United States and the States and municipalities, including the fiscal interrelationship between the Federal Government and State and local governments and the manner in which Federal assistance is disbursed to State and local governments, and including an evaluation of studies, reports, and recommendations made thereon and submitted to the Congress by the Advisory Commission on Intergovernmental Relations pursuant to the provisions of Public Law 86-380, approved by the President on September 24, 1959, as amended by Public Law 89-733, approved by the President on November 2, 1966; of which amount not to exceed $15,000 may be expended for the procurement of the services

of individual consultants or organizations thereof.

SEC. 6. Not to exceed $258,618 shall be available for a study or investigation of the efficiency and economy of operations of the Federal Government with respect to—

(1) Policies, procedures and activities affecting—

(A) the accounting, financial reporting and auditing of government obligations and expenditures;

(B) the oversight of Federal agency and program performance and effectiveness;

(C) the development and effectiveness of fiscal, budgetary and program information systems and controls; and

(D) the development and improvement of management capability and efficiency;

(2) Policies, procedures and activities affecting—

(A) preparation and submission of Federal regulatory agency budgets to Congress; and

(B) data collection and dissemination by Federal regulatory agencies; and

(3) Review and evaluation of procedures and legislation with respect to federal advisory committees, federal resports, questionnaires, interrogatories;

of which amount not to exceed $15,000 may be expended for the procurement of services of individual consultants or organizations thereof.

SEC. 7. Not to exceed $292,000 shall be available for a study or investigation of the efficiency and economy of operations of all branches of the government with respect to—

(1) Federal spending practices, particularly Federal procurement, and the laws, regulations and procedures governing Federal contracts, grants, transfer payments, and other spending arrangements; the Office of Federal Procurement Policy and other executive branch organizations responsible for Federal spending practices;

(2) The efficiency and economy of Federal spending practices, as applied and used to meet agency statutory charters and program objectives; and

(3) All measures relating to the open public conduct of the meetings of all branches of the government;

of which amount not to exceed $10,000 may be expended for the procurement of the services of individual consultants or organizations thereof.

SEC. 8. Not to exceed $115,000 shall be available for a study or investigation of the economy, efficiency, and productivity of the operations of the Federal Government with respect to—

(1) Development of—

(A) methods and procedures to effectively oversee the operations of the Executive branch; and

(B) methods by which Federal programs may be effectively reviewed and analyzed;

(2) Budget measures, other than appropriations, or matters within the jurisdiction of the Committee on the Budget as provided in the Congressional Budget and Impoundment Control Act of 1974, including—

(A) the formulation and submission to Congress of budget recommendations by the President; and

(B) the review and authorization of budget requirements by the Congress; and

(C) the execution and control of authorized budget obligations and expenditures;

(3) The utilization and disposal of Federal property and administrative services, including the management of Federal records and archives; and

(4) The evaluation of efforts to reduce the volume of Federal paperwork;

of which amount not to exceed $2,500 may be expended for the procurement of services of individual consultants or organizations thereof.

SEC. 9. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 29, 1976.

SEC. 10. Expenses of the committee under this resolution, which shall not exceed in the aggregate $2,406,362 shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 50—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE BUDGET

(Referred to the Committee on Rules and Administration.)

Mr. MUSKIE, from the Committee on the Budget, reported the following resolution:

S. RES. 50

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on the Budget, or any subcommittee thereof, is authorized from March 1, 1975, through February 29, 1976, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,892,000, of which amount not to exceed $133,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1976.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 51—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FINANCE

(Referred to the Committee on Rules and Administration.)

Mr. LONG, from the Committee on Finance, reported the following resolution:

S. RES. 51

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Finance, or any subcommittee thereof, is authorized from March 1, 1975, through February 29, 1976, in its discretion (1) to make expenditures from the contingent fund of the Senate, and (2) to employ personnel.

SEC. 2. The expenses of the committee under this resolution shall not exceed $990,000.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1976.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

NOTICE OF HEARINGS ON SMALL BUSINESS TAX NEEDS

Mr. NELSON. Mr. President, notice is hereby given of public hearings on the tax needs of small business under the twin impact of recession and inflation. The sessions are to be held on February 4 in room 1114 DSOB and on February 5 in room 224 RSOB at 9:30 a.m. each day.

The combination of inflation and recession we have witnessed over the past year has produced one of the most serious economic crises since the Great Depression. For 1974, the Consumer Price Index has increased 12.2 percent, while the Wholesale Price Index, which directly reflects the price small business firms must pay for their raw materials and merchandise, has increased 20.9 percent in the last 12 months. At the same time, a year-long recession has resulted in reduced national output and unemployment of over 7 percent.

There is wide agreement that a package of tax reductions is urgently needed to pull the country out of a recession, without further aggravating inflation.

What should be the participation of small business in this tax package? The small business community numbers 97 percent of the Nation's 12 million enterprises. It accounts for more than one-half of all employment and about one-third of the gross national product. It also provides invaluable leadership in local communities across the Nation, maintaining economic bases which contribute to balance between rural areas, smaller towns and larger cities.

The administration's tax proposals, in my view, do not do justice to small business. The two items in this tax package addressed to business are the investment credit and reduction of corporate tax rates.

Our research discloses that, as to the investment tax credit, the 351 largest corporations received more than one-half of all of the credits in 1968—the last full year for which information is available. Similarly, as to reductions in the corporate tax rate, the statistics from the Internal Revenue Service seem to show that small businesses earning less than $25,000—the level at which the corporate surtax is imposed—would receive only 6.4 percent of the benefits.

It can certainly be argued that one of the approaches to improving the economy is to confer the lion's share of the new advantages on a very few great corporations which already have lower effective tax rates than smaller companies. Evidently this is the position the administration has initially taken. But there are other approaches.

To me it seems far more equitable, and potentially more effective, to distribute the benefits of the 1975 tax legislation so that smaller business receives at least a proportionate share.

To that end, I will shortly introduce the comprehensive small business tax simplification and reform bill which has provisions aimed at all types of businesses and all phases of the business life cycle. Also, Representative AL ULLMAN, the distinguished chairman of the House Ways and Means Committee, has just proposed a tax package which gives additional recognition to small business.

We need to examine all of these proposals. If we are interested in creating jobs, we should explore whether those employing more than half the work force are in a position to increase employment more rapidly, and perhaps more permanently.

If capital investment is our primary goal, those considering tax proposals should probably be sensitive to the fact that large firms have access to the stock market, the bond market and many money markets which are closed to small firms because of their size. It seems to me that the increase in first-year depreciation approved by the Ways and Means Committee in August 1974 may be even better suited to today's circumstances. Moreover, such a provision would apply to the 10 million noncorporate businesses in the country as well as the 2 million corporations.

In my view, we should be doubly careful about piling additional tax advantages on top of disproportionate tax and capital-raising advantages already enjoyed by large corporations. This might have the effect of driving more small firms out of business, thus eliminating competition which in turn tends to again raise prices.

To inquire into these and related questions, the Select Committee on Small Business has scheduled 2 days of hearings in early February. We expect to hear from small business persons, private economists, and tax experts, as well as governmental agencies. We are requesting that the witnesses address themselves to the following matters:

First. Furnishing statistical evidence of the impact of recession and inflation on small business;

Second. Analyzing the administration's tax proposal for dealing with these problems, particularly as they affect small business; and

Third. Offering specific alternatives—with economic backup—to support how such proposals would benefit the economy, as well as small business by way of inclusion in the "quickie" tax package, as well as the longer term small business tax simplification and reform bill.

A report on this inquiry will be available for the Committee on Finance before the conclusion of their deliberations incident to reporting a bill. Time is short, but the timetable has been imposed upon us by the economic difficulties in which the Nation finds itself. We realize the burden imposed on the small business community is heavy because the facts and figures we are seeking are not gathered and packaged by any Government agency, but must be gathered laboriously by small business associations at their own substantial time and expense.

Nevertheless, I feel that every effort must be made. There is a consensus that we must have action now in the tax field.

Our hearings will be an opportunity for small business to "make its case" for equitable tax treatment in 1975. We hope they will give small business a voice in the drafting of tax legislation which will take shape in February, rather than being treated as an afterthought as has been the case for many years.

NOTICE OF SEMINARS BY THE BUDGET COMMITTEE

Mr. MUSKIE. Mr. President, as chairman of the Senate Budget Committee, I would like to announce a series of seminars which the Budget Committee will hold next week. The President's budget will be announced on Monday, February 3, and so these seminars are designed to address the economic considerations affecting this budget, the priorities reflected in the budget, and the various revenue proposals contained in the 1976 budget.

The program for the seminars is as follows:

Monday, February 3—"Economic considerations and the budget;" 9 a.m., room 3302 DSOB.

Tuesday, February 4—"Priorities in the 1976 budget;" 9 a.m., room 3302 DSOB.

Wednesday, February 5—"Congressional and administrative revenue proposals"; 9 a.m., room 3302 DSOB.

Participating in these seminars will be economists and budget experts as well as staff experts from the Budget Committee.

These seminars will be working sessions of the committee in preparing for the drafting of the first concurrent resolution and the accompanying report.

ADDITIONAL STATEMENTS

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, next year we will be celebrating the Bicentennial anniversary of America's independence. The emphasis will rightly be placed on our continuing dedication to freedom and human rights, as embodied in the Declaration of Independence. It is an anniversary and an event of which every American can rightly be proud.

But there is another anniversary that occurred last month which escaped public attention and for which there was no fanfare. It was the 26th anniversary of the proclamation of the Universal Declaration on Human Rights. This is an event for which Americans can also be extremely proud. The United States in those early days of the United Nations was one of the prime movers in placing that body foursquare behind the promotion of human rights. In fact, the United States was the prime drafter of the first human rights convention ever adopted by the U.N.—the Genocide Convention.

In the intervening years, however, American enthusiasm for the promotion of human rights waned as geopolitical considerations caught the eye of our policymakers. Indeed, the treaty our delegates championed—the Genocide Convention—has languished before the Senate for a full quarter century without a vote on its merits.

Mr. President, there has been a great deal of speculation about the new spirit of the 94th Congress. Prompt ratification of this treaty would provide concrete proof of that new spirit and serve as a belated observance of the anniversary of Universal Declaration on Human Rights.

VIRGINIA—AND THE SEA

Mr. HARRY F. BYRD, JR. Mr. President, Vice Adm. M. G. Bayne, U.S. Navy, spoke before the Virginia Historical Society in Richmond on January 20, 1975.

Admiral Bayne is commandant of the National War College.

Admiral Bayne's address "Virginia—And the Sea" is a thoughtful, interesting, and stimulating one.

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

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

VIRGINIA—AND THE SEA

What a privilege it is for a naval officer to speak with this distinguished audience about the sea: and what a pleasure for a native of this great commonwealth to talk of the Virginian Sea—where it all began. Captain John Smith named the Atlantic Ocean coastal area from Cape Cod to Cape Hatteras The Virginia Sea, and so inscribed his famous map of Virginia. He was describing the boundaries of the original Virginia Charter issued by King James I jointly to the London and Plymouth companies on April 10, 1606.

This charter announced "our license to make habitation, plantation, and to deduce a colony of sundry of our people into that part of America commonly called Virginia, situate, lying and being all along the sea coasts, between 34° northerly latitude from the equinoctial line, and 45° of the same latitude, and in the mainland between the same 34° and 45°; and the islands thereunto adjacent or within 100 miles of the coast thereof.".

The charter thus, defined Virginia as all the land, coastal areas, islands and waters from what is now South Carolina to Maine extending 100 miles to seaward. Captain John Smith's Virginian Sea was aptly named.

Quite recently, the Virginia Sea has again been identified and updated by an interesting bathymetric chart produced by the Virginia Institute of Marine Science at Glouster Point, Virginia. Part one of that chart issued last year and called the Virginia Sea covers the coastal areas from Cape Henlopen; Delaware to Cape Hatteras; and as we approach our Bicentennial year—carries us back to those days when Western man was beginning an adventure destined to have the most momentous consequences for all mankind.

In the years which followed that first charter, the Virginia Sea became the crossroads for the greatest expansion of commerce and trade the world has ever known.

Through the waters of this sea hopeful people struggled westward with their meagre possessions and their dreams—often only their dreams. Many lost those possessions, and many gave their lives in the pursuit of their dreams; but the dreams were enough

to sustain most of them, and their achievement, in time, provided the world with the finest flowering of Western civilization yet known.

Their courageous vision and its direct relation to positive action was clearly seen in the 17th and 18th centuries; but at times today that vision may seem clouded. It is about that vision, and its fundamental truth that I would speak this evening.

The adventure through the Virginia Sea, which ultimately established in a new world, immense wealth and new frontiers of law, government, religion, commerce, education, society, technology and—especially of personal freedom—that adventure was successful because of the clear understanding of one unchanging natural law. Our world is 70% water—seas—oceans—which can be the highways between islands of populated land. The people who live on these islands most successfully are those who understand best how to use the water areas between them.

The eventual success of the London Company's establishment in Jamestown was achieved only after repeated efforts during the 17th century had failed; it was attempted in clear recognition that through the Virginia Sea lay the path of least risk to a new world. The Spanish held sway to the south of latitude 34°; the French to the north of latitude 45°. The English defeat of the Spanish armada in 1588 removed most of the Spanish warships from the Atlantic Ocean highways, and freed the movement of English ships to cross the Atlantic and enter the Virginia Sea. A residual of Spanish naval power remained, and constituted a threat as English ships moved west into the new world. Close by were the traditional routes of the Spanish treasure fleets; any ship sighted had to be feared as a potential enemy: Here pirate trade flourished; here storms and treacherous, uncharted areas were a way of life. But here in the Virginia Sea lay the roadway to new wealth, fertile new lands, new raw materials to feed the industrial revolution in England; and above all—a chance for all who survived the trip to start a new life and adventure unmarred by royal or feudal whims.

The southern end of the Virginia Sea was the gateway to this new world. In the developing days of this Nation the rivers of the James, the York, the Rappahanock, the Potomac led into the fertile coastal plain, and nurtured and spread the unique seed first planted in 1607 at Jamestown. Shipping reached these rivers, through Cape Henry and Cape Charles by proceeding into the Chesapeake Bay (an Algonquin Indian name meaning Great Shellfish Bay). The bay and the rivers formed a natural protective system, and fostered rapid development of special kinds of seaborne commerce which brought the benefits of wealth and prestige to Virginia planters. It was an environment in which energetic and intelligent men could prosper.

The lure of the new life brought all types across the Virginian Sea—and Virginia accommodated them all—aristocrats, religious zealots, criminals; defeated royalists driven from England by Cromwell, as well as those "roundheads" who fled when Charles II came to the English throne—borne on the highway of the sea they came, and subsequently sent back the riches of the new world; creating a revolution in trade—seaborne trade—with Europe and with the Far East—opening up the natural wealth of this continent and beyond. By 1830 growing world trade turned on the hub of a wheel which revolved about the U.S. Atlantic seaboard and British ports; the spokes of the wheel reaching all portions of the globe. The equation was balanced, and it was a maritime one—its elements—the Virginian Sea; colonial energy—initially British protection at sea—later U.S. protection at sea, equalled: world maritime trade. The formula spelled success.

Trade was interrupted by the Civil War, which in large part was decided by Union control of the Virginian Sea and the Atlantic and Gulf coasts; but this was only an interlude in the steady development of trade from this hemisphere.

When the last vestige of Spanish power was removed from the Caribbean in 1898, the United States held sway. The Panama Canal was built and another maritime dimension was added to world trade.

What I shall say this evening will accentuate the historical truth—hammered home by our past—that the sea rewards those who understand it and who use it well. They achieve a degree of freedom and progress not available to others.

Perhaps that statement before this audience, smacks of Admiral Mahan updated—and in a way it does—for Alfred Thayer Mahan wrote that success in peace and war is dependent on control of the seas—certainly he would agree that our security today, in an increasingly interdependent world is, even more dependent on free access to this three-quarters of our planet's surface.

George Washington understood it. He began his own Navy in 1775 by converting several small schooners into warships which harassed British shipping. They were called "Washington's Fleet." But they were not enough, and without the French fleet under Admiral De Grasse off the Virginia Capes in 1781, General Cornwallis would not have surrendered at Yorktown. Washington in writing De Grasse said:

"Your excellency will have observed that whatever efforts are made by the land armies, the Navy must have the casting vote in the present contest."

Lord Montgomery, Britain's most famous Army general in World War II said in his History of Warfare:

"The lesson is this: in all history the nation which has had control of the seas has, in the end, prevailed."

It is tempting to go on, quoting great men, basking in the reflected light of exciting times past; it is tempting and it is fun; but today we are not apt to hear too well these distant echoes from the past.

We are a comfortable nation, a successful nation—the most successful the world has ever known. The vast majority of our people have never known want; true, some have, and for them we feel a compassion which drives us to help them improve their lot. Generally, we take our good life for granted, not questioning too deeply how we obtained it—it was always there—not worrying too much about signs which indicate that the cup may be running over—if we spill a little—somehow, someone else will fill it up for us—not relating carefully to the future, the immutable laws of supply and demand—because today in spite of temporary reverses, we believe things will turn out all right. They always have before!

There is nothing surprising about this American attitude. We are human beings and as such are competitive. We strive for improvement of our way of life—and are sometimes delayed in seeing how actions of others, perhaps thousands of miles away, may be setting the stage to change that life—we see it when it happens to us—not before.

The basic truths have not changed. The expense, the risk, the determined hard work undertaken by those souls who set out under London charter to enter the Virginian sea in 1606, are just as applicable today as they were then—perhaps camouflaged a bit—perhaps dangerously camouflaged by our comfort and our success; but they are there still, and if we violate them, our way of life will change adversely—if we respect them—our path ahead is unlimited.

Today the United States is an island, connected with other world islands by water highways—highways along which commerce freely flows. These highways are paths—not barriers—they become barriers only if we make them so. In prior times we heard that the two best allies of this country were the Atlantic and Pacific oceans. This was the isolationist belief heard between the two world wars. Perhaps in the early days of the Virginian sea that notion had merit—the separation in time and technology made it true. Now these oceans are connecting links and we cannot hide behind an outdated theory which claims that they protect us. The other islands are now too close, close in time and close in the technology required to span their widths easily.

Here it is that our contemporary American vision sometimes tends to blur. It becomes blurred when we, the largest international trader in the world, allow the percentage of our overseas trade carried in U.S. flag ships to drop from 57.6% in 1947 to 5% in 1970.

By comparison, in 1970, the Soviets carried 56% of their trade in ships flying the Soviet flag, Japan 47%, Norway 43%, France 38%, Spain 37%, United Kingdom 35%, West Germany 29%, Italy 23%.

In October of 1970, in recognition of this deterioration, the U.S. Maritime Act of 1970 was signed into law. It provides for a ten-year shipbuilding program to update the American merchant fleet. This program is designed to begin the road back to a capability envisioned in the Merchant Marine Act of 1936. This Act states that it is necessary for our national defense and for the development of our foreign and domestic commerce, that the United States shall have a merchant marine capable of carrying all its domestic waterborne commerce; a substantial portion of its foreign trade; and capable of serving as a naval and military auxiliary in time of war or national emergency.

Certainly 5% cannot qualify as substantial.

Today we import all or part of 69 of the 72 essential commodities which sustain the industrial heart of our land. The vast majority of these products arrive at our ports in ships which do not fly the American flag. There are those who feel that this degree of reliance on foreign shipping is not against our national interests; that U.S. privately owned ships flying other flags, primarily Liberian or Panamanian, are just as subject to call as are ships owned and operated under United States laws. The statistics are interesting.

In 1971 the foreign flag fleet owned by U.S. citizens numbered 480 ships with a deadweight tonnage of 28 million tons.

In 1973 the United States flag fleet numbered 573 ships of only 13 million deadweight tons.

I do not intend to sit in judgment here, simply to present facts as they are emerging in our complicated, competitive, commercial world. Perhaps symbolic of our times is the launching just ten days ago, into the Patapsco River of the largest ship ever built in this country. She is the supertanker Massachusetts, a 265,000 ton tanker built by Bethlehem Steel for Boston VLCC Tankers, Inc.

Although she will enter the Virginian sea to begin her life of world trade, she is not likely to carry out that trade in U.S. waters for some time. Her size, and the absence of U.S. ports deep enough to accommodate her will cause her to be leased for operation among foreign oil ports of call.

On January 4th of this year President Ford signed a bill granting permission to build deep water moorings for such ships, beyond the three-mile line, off the coasts of Delaware, Maryland and Virginia.

In Virginia maritime trade is growing rapidly. Last October Admiral E. P. Holmes,

the executive director of Virginia's Port Authority, informed the 26th annual conference on world trade that the port of Virginia had exceeded shipping forecasts; running almost four years ahead of projections, and would reach five million tons of general cargo and, over 300,000 containerized units per year by 1980, a 40% increase over present levels.

He attributed the rapid growth to the favorable geography of Hampton Roads and an abundance of good loading and transportation facilities. He referred to Hampton Roads as the Gateway to the Midwest. It is the pull of the Virginian sea all over again.

This attraction of the Virginian sea works in other ways. The establishment of the International Trade and Development Department in Virginia in 1969 has, to some extent, made more visible this attraction. At present about 460 million dollars of foreign capital has been invested in the commonwealth. Sixty-one foreign firms ranging from automotive assembly to the manufacture of synthetic fibers use the pathways of the Virginia sea. Is it unrealistic to assume that the massive availability of investment capital to the oil producing nations will result in significant increases of capital flow to this unique trading location?

The Merchant Marine is only one factor in this maritime equation. To be viable, to move freely about the oceans, that trade must be secure. It must not be challenged, it must not move under conditions which become unpredictable enough to cause insurance and wage rates to soar beyond the points of profitability.

The Virginian Sea was and is an attractive pathway because the British, and now the United States Navy insure freedom of movement to and from it.

We have no viable option in this country but to continue to maintain a Navy that is second to none. There seems nothing at all illogical about the notion that the nation which conducts the world's largest maritime trade requires the world's largest navy. It is an expense and a responsibility which must be borne—or, if we fail to do so, at a future time we will not conduct the world's largest volume of maritime trade. England is the latest example of this maritime truism.

Always, I am at great difficulty in following the arguments of those who suggest that a reduction in strength leads to greater probability for stability. Can anyone really believe that the Cuban quarantine, the Dominican Republic affair or the uneasiness at Lebanon some years ago would have resulted in a more stable world order had not the United States naval capability been superior to others.

In no case were naval weapons used, and that superior power was precisely the reason weapons were not needed. A society is at its closest proximity to conflict when it is perceived to possess valuables desired by another society, and is further perceived unable or unwilling to protect those valuables. It is not strength which gives rise to danger—it is exactly the opposite—weakness—as history has demonstrated time and again.

One cannot discuss this matter in the abstract for long without someone raising the question of the Soviet maritime build-up. Is it bad? Does it threaten us?

My answer to this invariably is, no, there is nothing had about it at all, and it does not threaten us, unless the Soviets perceive that we are unwilling or unable to continue to insure the free and full use of the world's maritime highways. Mankind has not changed since 1945—his weapons have—his numbers have—his use of the resources of his planet has—all have multiplied many times—but until mankind changes his basically competitive nature—he is most safe being strong not weak.

Last month in San Francisco, the Secretary of the Navy, J. William Middendorf, speaking before the San Francisco Rotary Club, said:

"It is the trend of expanding Soviet naval capabilities that I personally view as one of the most significant strategic developments since the atomic bomb."

This is an important statement for our Nation to hear, particularly Virginians who understand that a second-best maritime capability is not posted on the success board.

Since 1962 the Soviet navy has outbuilt the U.S. Navy in every category except aircraft carriers. If we list the numbers of major combatants today the comparison shows—

	Soviets	*United States*
Aircraft carriers	2	14
Cruisers	30	6
Destroyers	80	90
Escorts	109	66
Submarines	325	115

Next year the total number of ships in the United States Navy will be under 500, the lowest since before 1938.

It is difficult and dangerous to attempt comparisons of this nature. Someone is certain to say—you didn't list this or that, or one of these equals two of those. I do this not to ask you to add up sides and fight a hypothetical naval engagement. I do it only to indicate trends, and to provide data which will allow you to answer for yourself the inevitable question—how does he perceive me? Am I too strong to tempt, or am I too weak to care? It is a personal question—you cannot check the bidding to some mystical group of "brass," a euphemism meaning many things in today's vernacular. They preach the gospel in which they believe, just as surely as does your minister in your own church on Sunday morning. You either believe him or you do not: and your life and actions are governed accordingly.

Perhaps there is an illustrative symbol here also. On December 14th the Eighth American naval ship to bear the name *Virginia* left the building ways at Newport News Shipbuilding and Drydock Company and floated to her new home in the James River.

She is a nuclear powered naval cruiser to be armed with modern anti-submarine and anti-air weapons.

The newspaper accounts of the launching gave more space to the seven earlier *USS Virginias* than to this new ship. They recounted that a former *USS Virginia* had been originally named the *Merrimack* until she entered history and ushered in the era of iron clad warships.

But while making much of the poignant history of the earlier *USS Virginias*, they took little note that the eighth was the first ship of this type launched in our country in ten years.

Today we cannot confine our view of the sea to maritime trade and naval protection. The sea offers so much more. In April of last year our Senate began a national ocean policy study. They did so in recognition, that aside from the highways of the sea, the world's oceans contain enough food, energy and mineral resources to provide for the needs of mankind for undetermined periods into the future. The requirements for technology to reap these benefits, and to develop agreements among nations for use of the sea areas are becoming increasingly compelling.

Surprisingly perhaps, our country has no national ocean policy to bring together the related programs involving the Merchant Marine, the Navy, ocean research, fishing, and exploration of the seabeds—all programs having far reaching significance for our national security.

The Soviets do have such a policy. They coordinate carefully the activities of their Navy, their Merchant Marine, their fishing fleets and their oceanographic research ships—all under a policy to advance their national interests.

Admiral Gorshkov, the head of the Soviet Navy, says it well in explaining that objective. These are his words—

"It is evident that every time ruling circles in Russia failed to properly emphasize development of the fleet and its maintenance at a level necessitated by modern-day demands, the country either lost battles in wars or its peacetime policy failed to achieve designated objectives.

"However, the ruling circles of Tsarist Russia—despite repeated grave lessons demonstrating the absolute need of the state for sea power—still did not understand the importance of a Navy in the achievement of political objectives."

One other factor in this maritime equation must be mentioned.

The expanding resource needs of industrial societies place increased pressures on the 70% of the earth's surface covered by water, and industrial activities threaten the ecological balance of the oceans through pollution. Few issues so clearly exemplify the interacting character of global society as the problem of achieving a cooperative regime for the use of the seas. A Law of the Sea Conference in 1958 produced international agreements on certain aspects of this problem. Fresh United Nations efforts in the last five years have aimed at a comprehensive multilateral convention covering all the principal issues: the width of the territorial sea, the navigation of international straits, a coastal resource zone, an international regime for the exploitation of the seabeds beyond the national jurisdiction, control of marine pollution, and the establishment of a basis for scientific research.

At Caracas, Venezuela this past summer, 148 nations met to discuss these issues. It was the largest international conference ever held. The consensus appeared to be moving towards a twelve-mile territorial sea, a 200-mile coastal resource zone, and an international regime for the deep seabeds, but attainment of a comprehensive agreement still requires, most importantly, acceptance of free navigation of international straits. The hope is that agreement can be reached at a further session in Geneva scheduled for this March, with the possibility of a signing conference in Caracas in the summer. International agreement on these most important issues will be a huge step toward a rational approach for use of the planet's resources. Disagreement raises the possibility of unilateral national actions.

Being the wealthiest Nation on Earth; conducting the largest amount of world trade; using the largest amount of the Earth's resources; creating the highest standard of living; producing the greatest product in goods and services—nearly twice as much as the next nation in line; producing more food than any other nation and producing it much more efficiently; with all of this as our 200-year heritage—we necessarily inherit the awesome responsibility to keep the world's sea routes open and free.

Just as did those who set out for the Virginian Sea in 1606, we face risks. These risks may not come from weather and pirates; but they can come from being misunderstood.

The world is at a critical moment in history. Its people sense that there is a finiteness to the planet. They are beginning to be aware that population increases are using up planet resources at an exponential rate and producing waste at rates feared, but not yet clearly understood as to their effect on the Earth's environment. People throughout the world are becoming much more aware of each other. Those who have; sense a greater concern for those in need; not always because they are innately altruistic, but because those in need are becoming more aware of the great disparity between their lot and the luxury of others—and they are making themselves heard.

The haves and the have nots; the developed

countries; the developing or undeveloped countries; the East, the West—divide them into whatever categories you choose: (Each of today's philosophers seems to have a favorite way to slice the world pie)—all have this sense of impending change. It can come in orderly fashion, by logical, negotiated, rational understanding. It can also come by choosing up sides and issuing ultimatums.

Our country generally is acknowledged as the leader of most of the world's nations because of those superlatives I used a moment ago. As that leader we have a primary responsibility to insure that the rational road is the road travelled. So far, we seem to have done rather well—despite the hand wringing and the dire predictions of some.

If we are to continue, one of the most responsible and least costly actions we must take, is to provide insurance for those who cannot provide it for themselves, that the maritime pathways of this increasingly interdependent globe remain free for all to use. We can do this only by a strong, professional merchant marine to carry the trade, a strong, professional navy to insure its safe arrival, a progressive national program to seek new benefits from the interior, and from the seabeds of the world's oceans; all within a body of international law to legitimize the free use of these oceans for all.

The Virginian sea is alive and well. It means much more now than it did 200 years ago. As we Virginians travel through this great State—we sometimes have the feeling from the gift shops, the bumper stickers, the information booth posters, that Virginia is for lovers—but deep down the heritage of John Smith, Washington, Jefferson, Madison, Harrison, Lee, and others whom this audience can so readily name—that heritage leads me to the notion that Virginia is—and always has been for leaders.

PORTUGAL

Mr. KENNEDY. Mr. President, during recent days, we have been receiving disturbing reports from Portugal, about the progress of its democratic experiment:

Last weekend, the convention in Oporto of the Center Democratic Social Party—CDS—was disrupted by protestors, leading to the convention's cancellation.

Recently, legislation was approved that would effectively strengthen the dominance of the Portuguese Communist Party in the trade union movement.

There are recurring reports of efforts to postpone or cancel elections for a constitutent assembly, long promised by the armed forces movement for this March.

And there are growing rumors of further violence and a possible coup d'etat by opponents of the government in Lisbon.

Mr. President, many of us in this Chamber welcomed the overthrow of the Caetano regime in Lisbon last April 25, ending 48 years of repressive rule, and beginning an end to 500 years of Portuguese colonialism in Africa. Last November, I visited Portugal, and met with many of its leaders. While there, I expressed by own support for the future of Portuguese democracy and, upon returning to the United States, introduced legislation to provide aid for Portugal and the five African states gaining their independence; $25 million was authorized; $10 million has so far been appropriated in the continuing resolution.

This effort I believe is a firm demonstration of concern by the Congress of the United States for what was begun last April in Portugal. It reflects our concern that the Portuguese people will have a chance to build their own democratic, pluralistic institutions, and that Portugal will take its rightful place as an economically strong and politically viable country in Western Europe—and the world.

It is my earnest hope that the experiment will go forward; and that it will have every chance to succeed.

It would be tragic if the old tyranny of repressive rule is simply replaced by a new tyranny, a new repression, a new denial of basic political rights.

Mr. President, despite events of the past few weeks, I remain hopeful that the people of Portugal will be able to work out their destiny, within a democratic framework:

That individual liberties, free speech, and a free press will be respected;

That there will be freedom of association, and support for pluralism in the development of political institutions and parties;

That the elections for a constituent assembly will be held as scheduled, and provide the first elected basis for developing the new Portuguese political democracy; and

That a new birth of freedom will sustain the Portuguese people in these difficult times.

DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT

Mr. JAVITS. Mr. President, on Tuesday, my distinguished colleague, Senator JENNINGS RANDOLPH of West Virginia, chairman of the Subcommittee on the Handicapped, introduced S. 462. Title II of this measure is based upon the bill of rights for the mentally retarded which I originally introduced in the 92d Congress.

The shocking conditions at Willowbrook in New York, and many other institutions for the mentally retarded throughout the Nation which inspired this "bill of rights" have not ended. However, the debate on the issues since the 92d Congress has revealed that a comprehensive planning approach will go further to improve the situation of all developmental disabled persons than legislation directed solely at mental institutions. S. 462 is such an approach. As an integral part of this package, title II will establish minimum standards for residential and community facilities and agencies for the protection of the rights of those individuals needing services, while at the same time, encouraging deinstitutionalization and normalization.

This measure was introduced as S. 3378 in April 1974, and passed by the Senate on October 1, 1974. The press of the legislative calendar thereafter rendered the House unable to meet in conference with us on this measure. I am hopeful that S. 462 can speedily be brought before the Senate and passed so that a conference with the House can examine and work out any remaining differences before the continuing resolution under which the program is now funded, expires.

Title II is presently organized as follows.

Part A sets forth general provisions for residential and community facilities and agencies serving mentally retarded and other developmentally disabled individuals.

Section 201: A definition section containing the necessary definition of terms used in title II. The term "developmental disabilities" is again defined here, and is consistent with the definition in title I. Also there is a definition of "informed consent" which parallels that in the Human Experimentation Act.

Section 202: Establishes a national advisory council for residential and community facilities to review and recommend changes to the standards for facilities serving the mentally retarded and other individuals with developmental disabilities. Effective 90 days after enactment, the Secretary of HEW shall appoint the council which shall consist of 15 members. Such council shall be made up of members from appropriate public agencies providing services to individuals with developmental disabilities, professional and voluntary organizations representing people with developmental disabilities, and at least one-third of the council shall be consumers or the parents or guardians of individuals who are receiving services from publicly operated or publicly assisted residential and community facilities and agencies.

It is the duty and function of the council to advise the Secretary with respect to regulations promulgated under this title and on the standards set forth in parts C and D to study and evaluate the standards of parts C and D of this act and their effectiveness, conduct sight visits or studies and recommend changes in the standards, and to assist the Secretary in developing specific performance criteria for use in the alternative standards procedure of part B of this title.

The Secretary shall appoint members to the council within 30 days of the effective date of establishing the council and shall fill all subsequent vacancies within 30 days of their occurrence.

The council is authorized such sums as may be necessary for staffing and performance of duties in this section.

Section 203: Assessing compliance with standards. This section sets forth the mechanism by which a State must provide assurance to the Secretary that those facilities, both residential and community, must provide assurance for compliance with either the standards set forth in parts C and D of title II, and the establishment of a compliance plan, or that the residential or community facility or agency is meeting the requirements of part B of this title.

This section makes the Secretary responsible for insuring compliance with title II.

Any State desiring to receive assistance under this title shall submit a State plan setting forth the schedule for compliance of standards established in parts C and D of title II assuring reasonable State financial participation, demonstrating the need for continuing residential services, specifying how the State intends to evaluate and assess the compliance of residential and community facilities with the standards set forth in parts C and D of the title, provide for reviewing of this State plan by the State planning council, set forth a schedule of cost and demonstration procedures to assure that the primary emphasis on programs, relating to the mentally retarded and other developmentally disabled individuals will be to place these individuals in the least restrictive program and living environment commensurate with their capability.

Section 204: Authorizes such sums as may be necessary to help existing residential and community facilities and agencies to comply with the standards set forth in this title. The section also establishes a Federal share of 75 percent of the necessary cost determined by the Secretary.

Section 205: Maintenance of Effort. This section sets forth provisions for the main-

tenance of effort by States in relations to all Federal programs which have a bearing on those individuals in residential and community facilities and agencies to insure that the financial effort on the part of the State shall not be lessened with any increase in Federal aid. This language was developed in conjunction with the Office of Management and Budget and requires reports to the Congress of noncompliance with this section.

Section 206: Withholding of grants. This section provides that 5 years after the date of enactment of this title, no residential or community facility or agency for individuals with developmental disabilities shall be eligible to receive payments either directly or indirectly under any Federal law unless the facility meets the standards presented in parts C and D of this title or has demonstrated to the Secretary for a reasonable period of time that it has implemented requirements of part B of this title.

It provides in the case of withholding of grants to these facilities that the individual on whose behalf the grant or payments are being made shall not lose his entitlement and that the Federal Government shall hold these funds in trust for that individual.

Section 207: Evaluation and performance criteria. The section directs the Secretary of HEW to create an evaluation system of the performance criteria that is consumer oriented. Such system shall be developed in consultation with the national council, and transmitted to the Congress within 18 months of enactment of this title. $1,000,000 is authorized for this purpose in both fiscal year 1975 and fiscal year 1976.

Part B: Alternative criteria for compliance in lieu of standards for residential and community facilities and agencies, provided in parts C and D of this title.

Section 210: The purpose of this section is to provide for an alternative means for residential and community facilities to comply with standards set forth in parts C and D of the title by the use of specified procedural criteria set forth in this part, by compliance with certain minimum standards set forth in this part, and by additional compliance with specific performance criteria developed by the national council and the Secretary and deemed necessary for the protection of the rights of individuals receiving services in residential and community facilities and agencies.

Section 211: Individualized written habilitation plan. The Secretary shall insure that an individualized written habilitation program is developed for every individual who is in or served by a residential facility, community facility, or agency for which standards have been established under this act.

Every plan shall be developed jointly by representatives of the facility or agency responsible for the developmentally disabled individual or his representative. Such plans shall be reviewed periodically but at least annually.

Such plans shall include the statement of long-term habilitation goals for the individual, intermediate habilitation objectives, statement of specific service to be provided, dates for initiation and anticipated duration, objective criteria, and evaluation procedures. The plan is intended to assure the greatest latitude of choice for the individual and shall be written in language that is as understandable to all concerned as possible.

Under subsection F the Secretary is required to specify detailed performance criteria to further evaluate the progress attained by individuals through the use of such habilitation plans.

Section 212: Program coordination. Every person served by an agency shall have a program coordinator who is responsible for implementing the person's individual written habilitation plan. It shall be the function of the coordinator to attend to the total spectrum of the person's needs and be the focal point of responsibility for the provision of service to that person. The person—where practicable—or his family shall participate in the selection of this coordinator.

Section 213: Protective and personal advocacy. Under this section the Secretary shall insure that provisions are made for the establishing of a system of protection and personal advisory service within each State to monitor programs and services to protect the human and legal rights of every developmentally disabled individual served by a residential or community facility or agency.

Such programs shall be independent of the agency providing direct service. The newly established agency shall set such an independent compliance mechanism which has authority to review all complaints regarding infringement of rights or denial of benefits. Decisions of the independent compliance board shall be subject to appropriate judicial review.

Section 214: Record requirements. This section requires facilities using procedure of part B to keep records that the Secretary may deem appropriate to evaluate the effectiveness and compliance with this part and that such facilities shall review those individuals refused for service and the reasons for their refusal at least semiannually and that the information shall be reported to the Secretary and the State.

Section 215: Minimum standards for use with alternative procedures. This section sets forth provisions which shall be required when a residential or community facility or agency selects to use part B in lieu of the standards set forth in C and D.

These minimum standards comprise basic necessities for the individual to develop without violation of his human or civil rights. These minimum standards set forth certain physical requirements for the facilities opting to use part B procedures and provides certain minimum protections of the human rights of the individual.

Part C. Provides detailed minimum standards for residential facilities as developed by the major accrediting councils and associations in the field of care for the developmentally disabled. These are minimum standards guided by the principal of normalization of persons with developmental disabilities, which insure that persons receiving services from residential facilities are protected from violation of their human and civil rights.

Part D: Provides detailed minimum standards for community facilities and agencies serving persons with developmental disabilities. These are minimum standards, developed part C standards, are consistent with part C and likewise are guided by the principle of normalization of persons with developmental disabilities while insuring that the human and civil rights of these persons are not violated when they receive services from community facilities and agencies.

Mr. President, hundreds of hours of painstaking labor have been spent by many persons in the development of title II. I would particularly like to commend Mike Francis of Senator STAFFORD's staff, Lisa Walker, Judy Heumann and Nik Edes of Senator WILLIAMS' staff, Pat Forsythe, Ann Hocutt, and Bob Humphreys of Senator RANDOLPH's staff, and Jon Steinberg of Senator CRANSTON's staff, for their ideas, effort, enthusiasm, skill, and persistence in readying this measure for passage by the Senate and for conference with the House.

This "bill of rights" represents a reaffirmation of the basic human and civil rights of all citizens. It offers the direction to provide a valid and realistic framework for improving the overall situation of this country's mentally retarded and other developmentally disabled individuals.

Progress toward recognition of the basic human and civil rights of the mentally retarded and other developmentally disabled persons has been slow. The Federal Government has largely abrogated its responsibility in this regard and recently the greatest initiatives have come from our courts. For example, a 1972 decision of a U.S. district court in the case of Wyatt against Stickney set forth constitutionally required minimum standards for the care and treatment of mentally retarded patients. Before the Supreme Court at this time, is O'Connor against Donaldson in which the U.S. Court of Appeals of the Fifth Circuit held that a mental patient in a public institution has a constitutional right to treatment.

Congress must reaffirm its belief in equal rights for all citizens—including the mentally retarded. Congress must provide the leadership to change the tragic warehousing of human beings that has been the product of blind Federal support of facilities providing inhumane care and treatment of the mentally retarded. S. 462 represents this new direction, and begins this reaffirmation.

FINANCE COMMITTEE RULES

Mr. LONG. Mr. President, the Legislative Reorganization Act requires each standing committee of the Senate to adopt rules and publish them in the CONGRESSIONAL RECORD at the beginning of each Congress. I ask unanimous consent that the Finance Committee rules adopted by the committee in executive session on January 28, be printed in the RECORD.

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

COMMITTEE ON FINANCE

I. RULES OF PROCEDURE

Rule 1. *Regular Meeting Days.*—The regular meeting day of the committee shall be the second and fourth Tuesday of each month, except that if there be no business before the committee the regular meeting shall be omitted.

Rule 2. *Committee Meetings.*—(a) Except as provided by section 133(a) of the Legislative Reorganization Act of 1946 as amended by section 102(a) of the Legislative Reorganization Act of 1970 (relating to special meetings called by a majority of the committee) and subsection (b) of this rule, committee meetings, for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the chairman. To the greatest extent possible, members will be notified of committee meetings at least 24 hours in advance.

(b) In the absence of the chairman, meetings of the committee may be called by the ranking majority member of the committee who is present, provided authority to call meetings has been delegated to such member by the chairman.

Rule 3. *Presiding Officer.*—(a) The chairman shall preside at all meetings and hearings of the committee except that in his absence the ranking majority member who is present at the meeting shall preside.

(b) Notwithstanding the rule prescribed by subsection (a) any member of the committee may preside over the conduct of a hearing.

Rule 4. *Quorums.*—(a) Except as provided in subsections (b) and (c) ten members shall constitute a quorum for the conduct of business.

(b) Notwithstanding the rule prescribed by subsection (a), one member shall constitute a quorum for the purpose of conducting a hearing.

(c) Once a quorum as prescribed by subsection (a) has been established for the conduct of business in executive session, the committee may continue to conduct business so long as five or more members are present.

Rule 5. *Reporting of Measures or Recommendations.*—No measure or recommendation shall be reported from the committee unless a majority of the committee is actually present and a majority of those present concur.

Rule 6. *Proxy Voting; Polling.*—(a) Except as provided by section 133(d) of the Legislative Reorganization Act of 1946 as amended by section 106(a) of the Legislative Reorganization Act of 1970 (relating to limitation on use of proxy voting to report a measure or matter), members who are unable to be present may have their vote recorded by proxy.

(b) At the discretion of the committee, members who are unable to be present and whose vote has not been cast by proxy may be polled for the purpose of recording their vote an any rollcall taken by the committee.

Rule 7. *Order of Motions.*—When several motions are before the committee dealing with related or overlapping matters, the chairman may specify the order in which the motions shall be voted upon.

Rule 8. *Bringing a Matter to a Vote.*—If the Chairman determines that a motion or amendment has been adequately debated, he may call for a vote on such motion or amendment, and the vote shall then be taken, unless the Committee votes to continue debate on such motion or amendment, as the case may be. The vote on a motion to continue debate on any motion or amendment shall be taken without debate.

Rule 9. *Public Announcement of Committee Votes.*—Pursuant to section 133(b) of the Legislative Reorganization Act of 1946 as amended by section 104(a) of the Legislative Reorganization Act of 1970 (relating to public announcement of votes), the results of rollcall votes taken by the committee on any measure (or amendment thereto) or matter shall be announced publicly not later than the day on which such measure or matter is ordered reported from the committee.

Rule 10. *Subpoenas.*—Subpoenas for attendance of witnesses and the production of memoranda, documents, and records shall be issued by the chairman, or by any other member of the committee designated by him.

Rule 11. *Open Committee Hearings.*—To the extent required by section 133A of the Legislative Reorganization Act of 1946 as amended by section 112(a) of the Legislative Reorganization Act of 1970 (relating to limitations on open hearings), each hearing conducted by the committee shall be open to the public.

Rule 12. *Announcement of Hearings.*—The committee shall undertake consistent with the provisions of section 133A of the Legislative Reorganization Act of 1946 as added by section 111(a) of the Legislative Reorganization Act of 1970 (relating to public notice of committee hearings) to issue public announcements of hearings it intends to hold at least one week prior to the commencement of such hearings.

Rule 13. *Witnesses at Hearings.*—(a) Each witness who is scheduled to testify at any hearing must submit his written testimony to the staff director not later than noon of the last business day preceding the day on which he is scheduled to appear. Such written testimony shall be accompanied by a brief summary of the principal points covered in the written testimony. Having submitted his written testimony, the witness shall be allowed not more than ten minutes for oral presentation of his statement.

(b) Witnesses may not read their entire written testimony, but must confine their oral presentation to a summarization of their arguments.

(c) Witnesses shall observe proper standards of dignity, decorum and propriety while presenting their views to the committee. Any witness who violates this rule shall be dismissed, and his testimony (both oral and written) shall not appear in the record of the hearing.

Rule 14. *Audiences.*—Persons admitted into the audience for open hearings of the committee shall conduct themselves with the dignity, decorum, courtesy and propriety traditionally observed by the Senate. Demonstrations of approval or disapproval of any statement or act by any member or witness are not allowed. Persons creating confusion or distractions or otherwise disrupting the orderly proceeding of the hearing shall be expelled from the hearing.

Rule 15. *Broadcasting of Hearings.*—(a) Broadcasting of open hearings by television or radio coverage shall be allowed upon approval by the chairman of a request filed with the staff director not later than noon of the day before the day on which such coverage is desired.

(b) If such approval is granted, broadcasting coverage of the hearing shall be conducted unobtrusively and in accordance with the standards of dignity, propriety, courtesy and decorum traditionally observed by the Senate.

(c) Equipment necessary for coverage by television and radio media shall not be installed in, or removed from, the hearing room while the committee is in session.

(d) Additional lighting may be installed in the hearing room by the media in order to raise the ambient lighting level to the lowest level necessary to provide adequate television coverage of the hearing at the then current state of the art of television coverage.

(e) The additional lighting authorized by subsection (d) of this rule shall not be directed into the eyes of any members of the committee or of any witness, and at the request of any such member or witness, offending lighting shall be extinguished.

(f) No witness shall be required to be photographed at any hearing or to give testimony while the broadcasting (or coverage) of that hearing is being conducted. At the request of any such witness who does not wish to be subjected to radio or television coverage, all equipment used for coverage shall be turned off.

Rule 16. *Amendment of Rules.*—The foregoing rules may be added to, modified, amended or suspended at any time.

UNIVERSITY OF TEXAS AT SAN ANTONIO: A BICULTURAL, BILINGUAL UNIVERSITY

Mr. TOWER. Mr. President, we in this country have a serious responsibility to insure that all of our human resources are developed to their fullest potential. In light of this fact, I have long been particularly sensitive to the educational and cultural problems which have confronted the Spanish-speaking people within my own State of Texas.

I would like, then, to congratulate the University of Texas at San Antonio on a unique new program that has been initiated there. UTSA is about to become the most bilingual and bicultural university in the country, and I am extremely proud of this school's fine efforts. The U.S. Information Agency has distributed information on UTSA's new educational program to all U.S. Information Service Posts throughout Latin America, and I ask unanimous consent that a copy of this material be printed in the RECORD.

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

UTSA: A BICULTURAL, BILINGUAL U.S. UNIVERSITY

An experiment in bicultural education at the university level is underway at the University of Texas at San Antonio (UTSA).

Undergraduate classes are set to begin in the fall of 1975 and graduate programs began last year. The campus is located on a 600-acre tract north of San Antonio, Texas in an area with a large concentration of Mexican Americans.

UTSA's president, Dr. Peter T. Flawn has disclosed plans for the development of the new university as a bicultural and bilingual learning center. Dr. Flawn himself fluent in Spanish, has worked in Mexico as a geologist and teacher.

It is already apparent that the university will place major emphasis on bilingual and bicultural education. Fourteen of the university's top administrators and faculty members have backgrounds in bicultural education and are both fluent in Spanish and English. The faculty, which ultimately will number 450 to 500, will continue to be chosen on the basis of their bilingual qualifications.

The university has had a boost in providing this kind of first class education from the Health Science Center of the University of Texas located only a few miles from the UTSA campus. As Dr. Flawn pointed out: "Cooperation with the Health Science Center will give us a big step forward in many programs. Together we will be able to build a fine pre-medical program, as well as strong programs in the allied health area, life sciences and behavorial sciences."

This idea was reiterated by Dr. Armand Guarino, chairman of the biochemistry department and dean of the graduate school of biomedical sciences at the Center who observed: "When students and faculty in different fields collaborate, they all benefit professionally."

UTSA's emphasis on bicultural programs has resulted in an arts program that will include not only the study of Latin American and Spanish art, but also the art of the U.S. Southwest. Dr. Jacinto Quirarte, dean of the College of Fine and Applied Arts, believes this to be the first time such a program has been established as an integral part of the broad spectrum of art study.

Dr. Quirarte plans to invite Latin American specialists in a variety of fields—historians, artists and craftsmen—as visiting lecturers. The first distinguished visiting professor, Miguel Celorio, a Mexican architect and art historian, taught in the graduate school this summer.

A major factor contributing to the importance of the bilingual program at UTSA was the passage by the Texas State Legislature of a law requiring bilingual teaching from the first through the seventh grades in areas where a large portion of the students speak little English. The Spanish-speaking student must be taught in both English and Spanish during the elementary school grades.

As Dr. Flawn explains, this does not mean that Spanish-speaking pupils are taught apart from those speaking only English. Rather, English and Spanish-speaking students are taught side by side, learning each other's language. In this way, many more students will be bilingual when they graduate from high school who heretofore would have learned only one language. In this way, a quality education will be available to every child.

The growth of bilingual teaching in the elementary grades will create a new demand for bilingual teachers, and UTSA is prepared

to supply this need for trained bilingual teachers through their newly-organized teacher training program. Teachers will be fully qualified in both English and Spanish.

In addition to the arts and teacher training programs, UTSA will offer special classes in Inter-American business, environmental management and many others. The goal of a first-class bilingual education appears to be well within reach of the students and faculty of the University of Texas at San Antonio.

EAST-WEST TRADE AND FREEDOM OF EMIGRATION

Mr. JACKSON. Mr. President, I ask unanimous consent to have printed in the RECORD a statement which I made on Sunday, January 26, in response to Secretary Kissinger's announcement of January 14 that the Soviet Union had decided not to bring into force the 1972 Trade Agreement.

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

SECRETARY KISSINGER'S ANNOUNCEMENT OF JANUARY 14

(Statement by Senator HENRY M. JACKSON)

On January 14, Secretary of State Kissinger informed us that the Soviet Union has decided not to bring into force the 1972 Trade Agreement granting Moscow most-favored-nation treatment by the United States subject to implementing legislation. The Secretary's announcement, which came as a complete surprise to me and to my Congressional colleagues, has given rise to confusion, speculation, and misunderstanding. The time has come to set the record straight.

At the outset, I wish to make my own position clear: to me, genuine détente requires freer movement of people and ideas, and not just of machinery or wheat. I continue to believe that the economic power of the United States should be pressed ii to the service of human rights, and I continue to believe that the courageous men and women fighting for their freedom in the Soviet Union are worthy of our support. I will not abandon their cause, whether under pressure from the cold-hearted in Moscow, or the faint-hearted in Washington.

TRADE WITH THE SOVIET UNION

I continue to support expanded trade with the Soviet Union, despite its rejection of the 1972 agreement; and ordinary commercial trade—profitable to both sides, and requiring no government subsidies—may well continue to grow. But the fact is that to the Soviets the 1972 Trade Agreement was designed to bring not so much our trade, as our aid—in the form of a huge infusion of American capital at subsidized interest rates. On this we have the authority of Dr. Kissinger in his January 13 Business Week interview:

"The Soviet Union was much more interested in credits than it was in trade because, for the next four or five years, it will have very little to give in reciprocal trade."

The Trade Agreement of 1972 was not, in economic terms, the sort of "mutually beneficial trade relations with the Soviet Union" Secretary Kissinger espoused in his January 14 statement; rather the stream of benefits in that agreement flowed one way only—east to Moscow. Well aware of this, Congress insisted that the imbalance of benefits be redressed—not in economic terms (for there is no real prospect of that), and not in geopolitical terms (where Soviet accommodation has proved wholly elusive), but in terms of movement toward the implementation of Article XIII of the Universal Declaration of Human Rights which provides for free emigration. Despite the Administration's timidity, the judgment of Congress prevailed. By overwhelming margins in both Houses, credits and most-favored-nation treatment were linked to elementary human rights.

INTERNATIONAL LAW AND INTERNAL AFFAIRS

By acceding to the "International Convention on the Elimination of All Forms of Racial Discrimination" in 1969, the Soviet Union acknowledged that emigration policy goes beyond the limits implied by the term "internal affairs." Soviet ratification of this convention ended once and for all the pretense that Soviet emigration policy is an improper subject for action by the international community. The 1969 convention specifies that: ". . . Parties undertake to . . . guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin . . . to leave any country, including his own, and to return to his country." The Jackson amendment, far from being an intrusion into anyone's internal affairs, is one small step along the road to an international community based on law. Had the international community acted in this spirit at other times and places, much of the brutality and suffering that have marked the first three quarters of the twentieth century might have been avoided.

A SHORT HISTORY OF THE JACKSON AMENDMENT

On October 4, 1972, prior to the signing of the 1972 U.S.-Soviet Trade Agreement, more than 70 Senators joined me in introducing what became known as the Jackson-Vanik amendment. In December 1973 the House of Representatives passed this amendment by a vote of 319–80. At that time there were 77 Senators cosponsoring the Jackson amendment in the Senate. Its passage was certain. Nevertheless, in the interest of reconciling the Soviet desire for unconditional American trade concessions and the Congressional view that these concessions should be accompanied by Soviet action in the area of human rights, I, along with Senators Ribicoff and Javits, entered into negotiations with Secretary Kissinger aimed at producing a fair compromise. These negotiations, carried on over a period of nine months, led to agreement on the texts of two letters—one from Secretary Kissinger to me and one from me to Secretary Kissinger. The unique form of these letters, in which Dr. Kissinger conveyed to the Congress assurances that he had received from various Soviet leaders, was developed to accommodate the Soviet Union's refusal to become a party to a government-to-government agreement relating to what they still contended was an internal matter.

THE OCTOBER 18 COMPROMISE

The negotiations that resulted in the exchange of letters of October 18, 1974 were conducted over an extended period with the utmost care. At his press conference on January 14 Secretary Kissinger explained why the negotiations were so protracted:

"The reason the negotiations with the Senators took so long was our concern to make sure that we would communicate nothing that we could not back up. The Soviet Union gave us certain descriptions of their domestic practices, which we attempted to communicate as accurately as we could . . . they [the Soviets] have never disavowed the assurances or the statements in my letter [to Senator Jackson]."

The compromise of October 18 was in essence this: the Administration would convey assurances to the Congress that the rate of emigration from the Soviet Union would increase and that punitive action against individuals seeking to emigrate would cease. In exchange, I agreed to introduce an amendment to the trade bill that would enable the President to waive the credit and MFN restrictions of the Jackson amendment for 18 months with subsequent one-year waivers subject to Congressional approval.

The compromise of October 18 had been negotiated with Secretary Kissinger and approved by President Ford. It was an encouraging example of constructive cooperation between the Congress and the Administration that effectively bridged our philosophical differences on the substantive question of tying trade concessions to human rights. To implement the October 18 compromise the three Senators drafted, along with Administration and Finance Committee representatives, the agreed upon waiver authority. The Senate approved it by a vote of 88–0, and it was adopted by the full Congress with the trade bill on December 20.

Having negotiated the October 18 compromise in good faith, we thus delivered on our half of the bargain: we had authorized the President to extend MFN to the Soviet Union and to permit the Soviet to participate in U.S. government credit programs. The Russians, for their part, were expected to live up to the assurances that Secretary Kissinger had been authorized to convey to the Congress.

THE ASSURANCES ON EMIGRATION

The October 18 compromise thus revolved around the assurances conveyed to Congress. As a result, the Soviet renunciation of the Trade Agreement cannot be understood unless the substance of those assurances, and the attitude of the participants toward the compromise to which they led, is clear. On these issues Secretary Kissinger's testimony before the Senate Finance Committee on December 3 is especially instructive. Asked about the nature of the assurances in his October 18 letter, Secretary Kissinger went beyond what had already been made public:

"I have had many conferences on this subject with Ambassador Dobrynin and conferences with Foreign Minister Gromyko . . . In addition, when President Ford took office he had some conferences in which the statements that I have made here were reconfirmed by the same individuals. Finally, General Secretary Brezhnev has made analogous statements to President Nixon, to myself and recently to President Ford. This is the structure of the assurances that we have."

Senator HARTKE. "Are the assurances then made from Mr. Brezhnev, Mr. Gromyko, and Mr. Dobrynin?"

Secretary KISSINGER. "That is correct."

At the same hearing, urging support for the new proposed waiver amendment, Secretary Kissinger stated:

"I believe a satisfactory compromise was achieved on an unprecedented and extraordinarily sensitive set of issues . . . I believe it is now essential to let the provisions and understandings of the compromise proceed in practice."

Clearly, an arrangement such as the October 18 compromise could only be negotiated on the basis of good faith on the part of all the participants, and continuing good faith was a prerequisite for its successful implementation. Secretary Kissinger and President Ford understood this well. As the Secretary put it on December 3:

"This understanding which is reflected in these letters can operate only on the basis of good faith by all the parties concerned and good will among the Senators and ourselves. . . . This is a specific assurance which has been extended on a number of occasions, the violation of which would certainly be one that the Administration would take very seriously. The President, on a number of occasions, has told the three Senators that with respect to what is contained in our letter he believes that he can stand behind it."

As late as December 18, 1974, when the trade bill was under consideration in a House-Senate conference committee and af-

ter the Soviet news agency TASS released the text of a secret October 26 letter from Foreign Minister Gromyko to Secretary Kissinger, the State Department formally commented that Mr. Gromyko's letter "does not in our view change the understandings referred to in the Secretary's letter to Senator Jackson of October 18."

GOOD FAITH AND THE SOVIET UNION

I have quoted at length from remarks of the Secretary of State because I am astonished that, in all that has been said about the recent Soviet action, there has been so little recognition of the simple fact that the Soviet Union has unilaterally abrogated a good-faith compromise on which the ink was hardly dry.

Reading the commentaries of the Soviet press one would have thought that there had never been a compromise on October 18, a lapse of memory that recalls George Orwell's famous characterization of the Soviet Union as a country in which "yesterday's weather can be changed by decree." It was a bizarre case of blaming the lender for the borrower's failure to pay his debts. Rather than saying plainly that the Soviets had reneged, the Administration sought to blame the Congress—and then to exploit the Soviet action to inhibit the Congress from playing its Constitutional role in establishing tariffs and regulating credits.

Some commentators have suggested that the October 18 compromise might have worked if it had been kept secret. Not only is this contradicted by the repeated public reaffirmations by the Administration of the October 18 compromise *after* it had been announced but, more important, it implies that the Congress would have been willing to modify the Jackson amendment on the strength of intimations that there had been a "secret deal" that would justify such action. I could not ask my 534 Congressional colleagues to enact authority for the President to waive the House-passed Jackson-Vanik amendment without a full disclosure of the compromise that justified doing so, nor could Congress have fulfilled its statutory obligation to review the implementation of the compromise after 18 months if it had remained secret. The fact is the Administration fully understood that the compromise could not be a "secret deal."

EMIGRATION, CREDITS AND THE FUTURE

The $300 million ceiling on loans to the Soviet Union can, under existing law, be increased with Congressional approval. In my judgment, the Congress should not abdicate its responsibility to oversee the disposition of U.S. credits, particularly to the country whose policies require us to spend billions of dollars for defense. Congress cannot forfeit the public's confidence by giving the Administration a multi-billion dollar blank check to subsidize the Soviet economy. On this matter, I would like to commend to my colleagues the excellent statement by Senator Adlai Stevenson on January 21.

In supporting the Jackson-Vanik amendment the Congress has upheld the traditional American commitment to individual liberty. In negotiating the compromise of October 18 and incorporating its provisions with the original Jackson-Vanik language into the Trade Act, the Congress acted both in the hope that our good faith would be rewarded by good faith on the Soviet side, and with the prudence of providing legislative safeguards which deny the affected economic benefits to the Soviet Union in the event of bad faith.

Our determination on these matters is all the more justified by President Ford's January 21 statement that the Administration intends to "work with the Congress to eliminate any of the problems in the trade bill that might have precipitated the action by the Soviet Union." This unfortunate reaction suggests that we should reward an egregious Soviet breach of good faith with increased largesse and a weakening of our insistence that they move toward freer emigration.

I do not believe that the Congress will respond to the disappointing Soviet move by abandoning its commitment to help bring about the freer movement of people and ideas between East and West, and I expect the President and the Secretary of State to stand by their own commitments embodied in the October 18 compromise.

AMENDMENT OF COUNCIL ON WAGE AND PRICE STABILITY ACT—S. 409

Mr. PROXMIRE. Mr. President, I ask unanimous consent that a copy of S. 409; a bill to amend the Council on Wage and Price Stability Act to confer additional authority on the Council with respect to the prices of commodities and services, and for other purposes, which I introduced on Tuesday on behalf of myself and Senator STEVENSON be printed in full in today's RECORD.

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

S. 409

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

SECTION 1. This Act may be cited as the "Council on Wage and Price Stability Act Amendments of 1975".

SEC. 2. The first sentence of section 2(c) of the Council on Wage and Price Stability Act is amended by striking out the period and inserting in lieu thereof the following: "by and with the advice and consent of the Senate."

SEC. 3. Section 2 of the Council on Wage and Price Stability Act is amended by adding at the end thereof the following:

"(g) The Council shall have authority, for any purpose related to this Act, to require periodic reports and to issue subpenas, signed by the Chairman or the Director, for the attendance and testimony of witnesses and the production of relevant books, papers and other documents relating to wages, prices, costs, profits, and productivity by product line, or by such other categories as the Council may prescribe to carry out the purposes of this Act, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person under the provisions of this section, the Council may request the Attorney General to seek the aid of the United States district court for any district in which such person is found, to compel that person, after notice, to appear and give testimony, or to appear and produce documents before the Council.

"(h) Notwithstanding the provisions of section 4, any information obtained by the Council under subsection (g) shall be made available to the public unless the Council determines that public disclosure of such information would impose an undue competitive disadvantage on the person submitting such information, except that the Council may not make such a determination with respect to any information which could not be excluded from public annual reports to the Securities and Exchange Commission pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 by a business enterprise exclusively engaged in the manufacture or sale of a single product or service."

SEC. 4. Section 3(b) of the Council on Wage and Price Stability Act is amended by striking out "Nothing" and inserting in lieu thereof "Except as provided in sections 3A and 8, nothing".

SEC. 5. Section 3 of the Council on Wage and Price Stability Act is amended by adding at the end thereof the following:

"(c)(1) The Council may require any person having gross sales or revenues in excess of $250,000,000 during its most recent full fiscal year to submit a prenotification to the Council with respect to any price increase of any product or service of such person not more than 30 days prior to the effective date of such increase.

"(2) The Council may require any person who is an employer to submit a prenotification with respect to any wage increase affecting more than 5,000 employees not more than 30 days prior to the effecitve date of such increase. In any case in which a wage increase affecting more than 5,000 employees is agreed upon pursuant to the collective bargaining process, the Council may require any such prenotification to be submitted jointly by the employer and the employees' representative not more than 5 days after the agreement with respect to that increase has become effective or has been reached, whichever is later.

"(3) The Council may, by regulation, prescribe the form and content of any prenotifications required under this subsection, and it may require such prenotifications to be submitted by any person, without regard to sales, revenues, or number of employees, whenever it finds that a wage or price increase implemented by such person might significantly increase inflation."

SEC. 6. The Council on Wage and Price Stability Act is amended by inserting after section 3 the following new sections:

"SEC. 3A. The Council is authorized, by order, regulation, or otherwise, to delay for one period of not to exceed 60 days any proposed price or wage increase, in whole or part, which the Council determines would or could significantly increase inflation.

"SEC. 3B. Whenever it appears to the Council that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any requirement imposed under this Act, the Council may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such act or practice, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue a mandatory injunction commanding such person to comply with such requirement."

SEC. 3A. The Council on Wage and Price

SEC. 7. Section 5 of the Council on Wage and Price Stability Act is amended—

(1) by striking out ", and through him" and inserting in lieu thereof "and"; and

(2) by adding at the end thereof the following new sentence: "In each such report, the Council shall include a brief description of the activities the Council proposes to undertake during the succeeding six months."

SEC. 8. Section 6 of the Council on Wage and Price Stability Act is amended by striking out "$1,000,000 for the fiscal year ending June 30, 1975" and inserting in lieu thereof "$4,000,000 for each fiscal year ending prior to October 1, 1977".

SEC. 9. Section 2(d) of the Council on Wage and Price Stability Act is amended by striking out all after "United States Code" the first place it appears therein and inserting in lieu thereof a comma and the following: "except that the Director may, with the approval of the Chairman, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service, appoint and fix the compensation of not to exceed 8 individuals at the rates provided for Grades 16, 17, and 18 of such General Schedule, to carry out the functions of the Council."

SEC. 10. Section 7 of the Council on Wage and Price Stability Act is amended by striking out "August 15, 1975" and inserting in lieu thereof "September 30, 1977".

Sec. 11. The Council on Wage and Price Stability Act is amended by adding the following new section at the end thereof:

"Sec. 8. (a) Within fifteen days of the enactment of this section, the Council shall issue an order establishing a controlled price ceiling to govern the first sale of "old" domestic crude oil as classified pursuant to law at those price levels in existence on January 1, 1975.

"(b) Within fifteen days of the enactment of this section, the Council shall issue an order establishing a maximum controlled price ceiling to govern the first sale of "new" domestic crude oil as classified pursuant to law. Such ceiling shall not exceed 70 per centum of the actual average world market price for crude oil purchased for export from major oil-producing countries during the two-week period of January 1 through January 14, 1975, as determined by the Secretary of State: *Provided*, That such ceiling shall in no case exceed the current average world market price for crude oil.

"(c) The Council shall continuously review the operation of such orders to determine—

"(1) the extent to which such order has tended to reduce, or to provide an incentive for reductions in, the world oil price levels established by cartels;

"(2) any measurable impact which such order and any other price regulation has had or may have on the Nation's domestic supply of crude oil and the domestic demand for petroleum products refined or produced from such crude oil;

"(3) the extent to which such order has reduced the rate of inflation in the United States, increased the real income of consumers, and restored economic stability; and

"(4) any effect which such order has had or may have on the profit margins of major oil companies and on investment by such companies in exploration for and production of oil and gas and in research and development leading to new energy sources.

"Sixty days after the promulgation of orders under paragraphs (a) and (b) of this section, and at intervals of sixty days thereafter, the Council shall report the results of such order to the Congress.

"(d) The orders under paragraphs (a) and (b) of this section shall provide that any reduction in the price of crude oil (or any classification thereof), of residual fuel oil, or of a refined petroleum product (including propane) resulting from the provisions of this section be passed through on a dollar-for-dollar basis to any subsequent purchaser, reseller, or final consumer in the United States. Such passthrough of price reductions shall, to the extent practicable and consistent with the objectives of this section, be allocated among products refined from such crude oil on a proportional basis, taking into consideration historical price relations among such products."

PEACE IN INDOCHINA

Mr. KENNEDY. Mr. President, we are witnessing once again the administration's annual drama of political rhetoric, of threats and scare tactics, about Vietnam and Indochina. Once again we are hearing the same old arguments and the same old controversies over the same old war.

The clear implication of the administration's current statements over Indochina's policy, is that Congress holds the fate of Vietnam and Cambodia in its hands. And that unless Congress responds favorably to the administration's request for some $525 million in additional military aid for South Vietnam and Cambodia, the governments in Saigon and Phnom Penh will not survive.

The administration's arguments not only renews a needless controversy of recrimination over who is to blame for the failure of national policy in Indochina, but their arguments also mislead the American people.

Congress and the American people do not hold the fate of Saigon and Phnom Penh in their hands. The fate of Saigon lies in the implementation of the Paris Agreements for Vietnam, and the political framework established by these agreements for the Vietnamese to sort out their own future, short of war. And the fate of Phnom Penh lies in the diplomatic alternatives to war, and the attempt to negotiate a cease-fire agreement in Cambodia, which the administration promised the American people nearly 2 years ago.

We are told that we have a "moral commitment" in Indochina.

But we have no moral commitment to any army in Indochina. We have no moral commitment to this or that government—to this or that official or political faction. Our only true remaining moral obligations are with the people of the area—with the millions of orphans and refugees and other war victims who cry for help.

The American people are tired of hearing about new military options and the need for more guns and bombs for more war. Congress and the American people want to hear what our diplomats are doing to bring peace. We want to know what the President is doing to accomplish the political goals of the cease-fire agreements, and securing a truce in Vietnam.

The lingering and bloody conflict in Indochina deserves more of our diplomacy, and not more of our ammunition.

And in the absence of any new or meaningful diplomatic initiatives by the administration to reduce the level of conflict in Indochina and to help implement the Paris Agreements, the Congress must act to chart some new directions, and to change the level and character of America's involvement in Indochina. This means, in part, a denial of the President's request for additional military assistance to Saigon and Phnom Penh.

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 30 minutes.

The motion was agreed to; and at 11:03 a.m. the Senate recessed for 30 minutes.

The Senate reassembled at 11:33 a.m., when called to order by Acting President pro tempore (Mr. FORD).

APPOINTMENT BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice President, in accordance with title 46, section 1126(c) of the United States Code, appoints the Senator from Kentucky (Mr. FORD) to the Board of Visitors to the U.S. Merchant Marine Academy, and the Chair announces on behalf of the chairman of the Committee on Commerce (Mr. MAGNUSON) his appointments of the Senator from Louisiana (Mr. LONG) and the Senator from Maryland (Mr. BEALL) as members of the same Board of Visitors.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a continuation of the period for the transaction of routine morning business with statements limited to 5 minutes.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 12 O'CLOCK NOON

Mr. NELSON. Mr. President, I move that the Senate stand in recess until the hour of 12 o'clock noon.

Mr. ALLEN. Reserving the right to object, and I shall not object, would the Senator be willing to include in his request that at that time there be a period of 15 minutes for further morning business, not more than 15 minutes?

The ACTING PRESIDENT pro tempore. The Chair might advise the Senator, we have closed the morning hour out, it would still be in order, 45 minutes for the Senator from Alabama.

The motion was agreed to, and the Senate, at 11:35 a.m., recessed until 12 o'clock noon; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MORGAN).

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, how much time remains under the period for the transaction of routine morning business?

The PRESIDING OFFICER. Forty-two minutes remain for the dispatch of morning business.

Mr. ROBERT C. BYRD. Did not the time for the recess come out of that period?

The PRESIDING OFFICER. The time for the recess did not.

Mr. ROBERT C. BYRD. Is this the ordinary procedure, that time for a recess does not come out of the period for morning business?

The PRESIDING OFFICER. It is the ordinary procedure.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR ADJOURNMENT UNTIL MONDAY, FEBRUARY 3, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the

Senate completes its business today, it stand in recess until 12 o'clock noon on Monday next.

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

Mr. ROBERT C. BYRD subsequently said: I am told that in my motion a moment ago, I referred to a recess over until Monday. Am I correct? I did not intend that.

The PRESIDING OFFICER. The Chair did not understand that the Senator referred to a recess.

Mr. ROBERT C. BYRD. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon on Monday next.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, in order to give committees some opportunity to operate during the afternoon, and in order to give various other conferences some time which will not be interrupted, I will shortly move to adjourn over to Monday at noon.

I welcome the remarks or questions of any Senator at this point.

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

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. Mr. President, Senate Resolution 4 was submitted on January 14, 1975, having to do with a proposed amendment to rule XXII. It was submitted with the statement that a different rule existed, or exists, at the beginning of a new Congress, in regard to what majority would be required to amend the Senate rules or, more properly, to invoke cloture.

It seems to the Senator from Alabama that we have already passed the beginning of the new Congress; yet, no effort has been made to force a vote with respect to the resolution. The Senator from Alabama is going to insist, if this goes much longer, that we pass the beginning of the session. This resolution hangs like the sword of Damocles over the Senate, and this matter should be resolved.

Inasmuch as the leadership controls the flow of legislation and has not been reluctant on many occasions to seek to force votes on resolutions or bills that it wants up for consideration——

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

Mr. ALLEN. Let me finish my remarks, please, and then I will yield.

Mr. ROBERT C. BYRD. Mr. President, I have the floor, have I not?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ALLEN. I have no authority to yield, then.

The Senator from Alabama is wondering what, if any, plans the leadership has for seeking a vote on efforts to stop the discussion that from time to time takes place with respect to this amendment, or the Senator from Alabama would like to know whether the resolution has in fact been abandoned; because he sees less than a handful of Senators in the Chamber who would possibly support this resolution.

The Senator from Alabama is wondering, first, whether the resolution has been abandoned and, second, what plans the leadership has for removing this resolution from consideration by the Senate or for forcing a vote. He does not feel that it is conducive to the proper consideration of legislation, that it is fair to Senators who oppose this legislation, to require that they be on the floor all the time to speak against the resolution if it is called up.

With all respect and all deference, the Senator from Alabama would like to know of the leadership what the leadership plans with respect to this resolution.

Mr. ROBERT C. BYRD. Mr. President, that is a fair question and an appropriate question.

On yesterday, I talked with the Senator from Minnesota (Mr. MONDALE). As the Senator from Alabama knows, and as all Senators know, I have not participated in this discussion with respect to the change of Senate rule XXII.

Mr. ALLEN. Yes, I know that.

Mr. ROBERT C. BYRD. I may or may not participate in that. I cannot say that I know, myself, at this point. But I did feel it my duty, and under the direction of the distinguished majority leader, to approach Mr. MONDALE, who is, along with Mr. PEARSON, active in the attempt to bring about a change in Senate rule XXII, that portion of it which deals with so-called unlimited debate.

I approached Mr. MONDALE on yesterday and he indicated that he would talk with me this morning, after having consulted with Mr. PEARSON.

This morning he talked with me and said he had not yet had an opportunity to talk with Mr. PEARSON, but that he would during the day today, and get back to me.

What I am saying is that the leadership is attempting to work with both sides in this matter and find out from Mr. MONDALE and Mr. PEARSON what their plans are so that we will then know how to proceed.

Mr. ALLEN. The Senator from Alabama understands that some of the supporters of this resolution are over in Yugoslavia now. The Senator from Alabama inquires if we are going to wait for those Senators to return from Yugoslavia or whether we are going to go ahead and act in this matter?

Mr. ROBERT C. BYRD. I am sorry that I cannot answer the Senator's question beyond what I have already said.

Mr. ALLEN. The Senator thinks it might be well, then, for the Senator from Alabama to be here on the floor ad infinitum, during sessions of the Senate.

Is that correct?

Mr. ROBERT C. BYRD. Mr. President, based on past experience and my observations of the work, and it is very effective work, of the distinguished, and I mean very distinguished, Senator from Alabama (Mr. ALLEN), I do not think that there will be any question but that, an act of God intervening to the contrary, the Senator from Alabama will be here.

Mr. ALLEN. I thank the distinguished assistant majority leader. What this all boils down to is when do we expect this issue to come to a head?

Mr. MATHIAS. Mr. President——

Mr. ROBERT C. BYRD. Mr. President, I have the floor and I shall yield shortly.

The distinguished Senator from Alabama is a very tenacious Senator and he is addressing this question to a similarly tenacious Senator who does not have any answer beyond what he has already stated. If I had anything further, I would willingly impart it.

Mr. ALLEN. The leadership from time to time files a cloture motion. Does the leadership have any intention of filing a cloture motion with respect to this matter?

Mr. ROBERT C. BYRD. It has no such intention at the moment.

Mr. ALLEN. I thank the Senator.

Mr. MATHIAS. Mr. President, I thank the distinguished majority whip for yielding to me, and I am sorry to have interrupted his colloquy with the distinguished Senator from Alabama. I only attempted to do so with the thought that I was very pleased with the feeling expressed by the Senator from Alabama that we should resolve this issue. As he pointed out very accurately, we have been considering this change of rules for over 2 weeks. The Senate has very pressing matters to attend to: The problems of the economy, the problems of an energy policy, the crisis in the Mideast, the crisis in Vietnam. All of these questions are hanging on the decision on the change in the rules.

I am equally impatient to have this question resolved, and the Senator from Alabama, I think, could very materially help us in resolving them by bringing this to a decision of the majority of the Senate now. There is no reason that a majority of the Senate could not resolve this, and if the Senator would remove his objection to the majority of the Senate making this decision, I think it could be resolved very quickly in line with the views that he has already expressed here this morning. Those of us who have been pressing this fight, those of us who have committed ourselves to it, are just as anxious as he is, perhaps even a little more so, to let the majority of the Senate make this decision and do it just as promptly as possible.

Mr. ROBERT C. BYRD. Mr. President, I think the record will demonstrate that there is a great desire on the part of all Senators to press ahead with the Senate's business and to dispose of this matter quickly. However, I am constrained to think that the matter will not be disposed of today.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for not to exceed 1 hour, with statements limited therein to 10 minutes each.

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

ON SENATE RESPONSE TO PRESIDENT'S PROPOSALS ON ECONOMY AND ENERGY

Mr. HOLLINGS. Mr. President, I rise to the point being made generally that we in Congress have not responded to the President of the United States, that we have submitted proposals and a program on the economy and energy, but we have not responded with a total plan or comprehensive alternative. I think that the people should understand certain factors, and the media ought to be more aware of the situation as it exists here in the Senate.

It is the President, of course, who is charged with giving the state of the Union message, and we were waiting anxiously this month to hear it and then study it as closely as we could; and then, in light of the economic circumstances, the inflation-recession crisis that we find ourselves in—hopefully to be able to go along with it to solve the economic and energy problems which confront the Nation.

Since the President delivered that message 2 weeks ago, we find ourselves being charged with lethargy, unresponsiveness, and carelessness.

First, let me say this: Within 48 hours after the President delivered his message, there was a proposal made of a total plan, a comprehensive alternative. I submit this plan now.

I ask unanimous consent that my proposal be printed in the RECORD.

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

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

A TOTAL PLAN—A COMPREHENSIVE ALTERNATIVE

1. Under the Constitution, await House action for rebate and/or tax reduction.

2. Reject, reject, reject excise tax.

3. We can and will make an all-out effort against inflation and recession at once but the foreign import problem should be put on the back burner until about June so recovery signs can gain a firmer footing. Delay disturbing economic recovery until June. Then take a look-see, and commence energy solutions of import quotas, mandatory allocation and, as a last resort, gas rationing.

4. Immediately launch energy development and conservation program.

I. ENERGY ACTIONS

A. Adopt Kennedy-Jackson Resolution to prevent administrative imposition of increased fuel taxes.

B. Disapprove President Ford's disastrous high cost approach of $2 per barrel excise tax on imported oil, 37¢ per Mcf natural gas and decontrol of new gas and old oil. The real costs are as follows:

OIL

	Billion
Average oil price would increase from $9.50 to $15.50 because of deregulation, tariff, and excise tax @ 17 million barrels a day	$37.2

NATURAL GAS

a. Excise tax of 37¢ per 1,000 cubic feet	8.5
b. New gas deregulation in interstate market 1.3 Tcf x $1.80 Mcf	2.3
	10.8

COAL

Increase in price due to $3 barrel oil price tax increase: (530 million tons consumer @ 24 million Btu/Ton x 49¢/1,000 Btu's	6.2
Total	54.2

Consider for example:

1. The OPEC oil prices would be ratified by the United States, undercutting our bargaining position. Every time OPEC raises the prices, the domestic fuel will go up automatically.

2. The $54 billion added fuel bill increases the cost of all manufactured products and places all U.S. exports at a competitive disadvantage.

3. The inequities of the fuel tax are enormous. There is no way for example, that a rebate of only part of the added fuel tax can possibly be returned to the poor blue collar worker who drives 30 miles a day to work.

4. Major elements of society like the railroads and airlines which use large quantities of energy and are already in financial difficulty may be driven into bankruptcy.

5. Institutions like universities that pay no taxes and cannot quickly increase revenue will suffer from deteriorating service.

6. The inflation in energy prices will cause a 2% to 3% increase in the Consumer Price Index, which in turn will trigger escalation clauses in union contracts, as well as Federal wages, Social Security and retirement programs, and elsewhere in the economy.

7. It would add $54 billion a year to the nation's fuel bill while returning only $30 billion to the economy. This would have a most depressing effect on the economy as a whole, while the oil companies will be further enriched to the tune of many billions of dollars.

8. The $16 billion rebate to American families to stop recession averages $250 per family. The family share of the added fuel bill of $54 billion averages $1000 cost per family, leaving the American family in a worsened position by $750. It is like a contest that was held once for a slogan for a new insurance company. The winning slogan, "The Estate Life will surely pay if the small print on the back don't take it away."

C. This plan intends to give a rebate and allow the natural forces of the economy to correct slumpflation and allow a more solid footing to be gained on economic solutions by July 1 before launching an outright onslaught against the importation of Arab oil. In other words, give more emphasis to the solution to inflation-recession before giving the full emphasis to the energy problem. This does not mean delay in the institution of certain conservation measures and administrative revisions. Accordingly, at the time the excise tax is voted down, the Congress should vote

1. Institute Energy Production Board to increase development by 2 million barrels by January, 1979 as follows:

a. Oversee increased development, coordinate materials needs, direct construction of needed equipment such as rigs, freight cars, etc.

b. Immediate development of Gulf leases and heavy oil in California and Alabama, 600,000 barrels.

c. Alaska Pipeline, 200,000 barrels.

d. Secondary and Tertiary Recovery, 400,000 barrels.

e. Utility conversion to coal, 300,000 barrels.

f. Increased auto fuel economy, improved public transportation and other conservation measures, 500,000 barrels.

g. Better production efficiency in East Texas and Yates fields, 100,000 barrels.

Total increase by 1978, 2.1 million barrels.

h. Increase domestic oil from Federal lands through:

(1) Immediate government exploratory drilling of frontier OCS areas, $.4 billion.

(2) Immediate government development of Naval Petroleum Reserve 4, $.1 billion.

(3) Retain Elk Hills Reserve for emergency.

2. Introduce immediately legislation to:

a. Assist electric power industry to convert to coal and expand nuclear capacity including:

(1) 3 year 12% investment tax credit and loan guarantees for conversion and expansion;

(2) Related aid, such as loan guarantees, for increased freight cars & coal slurry pipelines to transport increased coal; and

(3) Prompt passage of strip mining bill.

b. Expedite siting and construction of refineries, power plants and other energy facilities and to encourage local and regional planning for these facilities; aid for state planning.

c. Automobile Fuel Economy:

(1) Mandate a fuel economy of 50% to 70% or 21 to 23.8 miles per gallon by 1980;

(2) Impose a mileage excise tax of $1000 for the 10 miles per gallon car, decreasing down to zero tax on the 20 miles per gallon car; and allow a tax credit on domestically produced cars with over 20 miles per gallon fuel economy, beginning at $100 and increasing as mileage improves; and

(3) Allocate revenues of $340 million over a 3 year period of Federal research program to supplement private research into alternate engine designs, paid for by excise tax revenues.

d. New Natural Gas provisions to increase supply:

(1) Require statutory formula for natural gas rather than total deregulation—FPC to make a finding of a national area rate not to exceed 75 cents within 4 months that will reflect incentive cost. This will be a fixed rate with no appeal and it would be adjusted only by the annual GNP deflater. Companies provided sanctity of contract. End argument once and for all on deregulation;

(2) Ban new sales of natural gas under boilers to produce electricity and phase out the present use initially over a 5 year period. One-half of the present 3.3 trillion cubic feet so used would be diverted to domestic and commercial feedstock uses;

(3) Allocate findings of new natural gas on all Federal lands to interstate market. These new leases also will require immediate development; and

(4) Under proper standards, give FPC authority to allocate gas from surplus pipelines to shortage pipelines.

e. Additional Conservation Measures:

(1) Adopt mandatory thermal efficiency standards for new buildings;

(2) Set 15% industrial conservation goal by 1980;

(3) Set 20% appliance efficiency goal by 1980; and

(4) Allow housing insulation tax credits and loans.

3. On June 1 reappraise economic situation with a view to imposing a mandatory allocation and import quota and also standby rationing authority.

4. If the allocation system after a reasonable test fails, impose gas rationing for 3 years to be replaced by January, 1979 with an increase in supplies brought about by Energy Production Board programs cited above.

a. Rationing Features:

(1) Negotiable Coupon;

(2) Basic entitlement of 9.5 gallons weekly per licensed driver;

(3) Commercial entitlement based on base year use;

(4) State set-aside program for hardship, health, etc.;

(5) Local appeals through Selective Service Boards; and

(6) Distribution through Post Office—4 month allotment—go on basis of birth date.

II. ANTIRECESSION ACTION

A. Approve $16 billion 1974 tax rebate: either President's or House's version or combination thereof.

B. Pay for $16 billion rebate plus cost of gas rationing program by tax reform and government spending changes as follows:

	1975–76	1976–77
Revenues	*Billion*	*Billion*
Elimination of Oil Depletion Allowance	$2.8	$3.2
Change Oil Royalty Tax Credit to Deduction	2.0	2.0
Repeal of Intangible Drilling Costs	1.0	1.0
Repeal of Export Subsidies (DISC)	1.0	1.0
4¢ Increase in Gas Tax	4.0	4.0
Increase Minimum Income Tax	1.0	1.0
Total		12.2
Cuts in spending		
Cut of 100,000 Troops in Europe	2.0	2.0
2% Cut in Federal Pay Costs	.5	
10% Cut of Federal Fixed Costs	3.0	
Total	17.3	14.2

III. BUDGET ACTION

A. Disapprove President's 1975 Tax Cut.

B. Get America Moving in housing, mass transit, and increased energy supplies, all paid for by 1976 revenues of $14.2 billion from tax reform proposal outlined in IB, as follows:

	Billion
1. Housing Program to get construction industry moving, including: Federal payment of differential on 7% interest loans for low and moderate housing and government as lender of last resort to prevent foreclosures on unemployed homeowners	$7.0
2. Mass Transit—double present effort	2.0
3. Energy-Exploratory drilling, investment tax credit, etc	.5
Total	9.5

C. Other Budget Actions:

1. Approve freeze on new programs except housing, energy, transit.

2. Approve entire Social Security increase based on CPI and reject Food Stamp cost increases.

3. Hold the line on Federal salaries by disapproving CPI increase and approve 5% limit on other CPI benefit increases.

4. Act on recision and deferral proposals as follows:

a. Disapprove food stamp cost increase and education program reductions—$.7 billion;

b. Retain $2 billion in water and sewer construction funds to aid impact of new housing starts; and

c. Approve remainder of recission and deferral proposals.

5. Hold the line on deficit Federal spending to get government out of money market—goal of FY 74 budget of $272 billion adjusted for inflation.

Mr. HOLLINGS. Mr. President, let me say at the outset that this is not the Democratic proposal, or the Policy Committee proposal. It is my personal plan, released to the press last week. I point out also that we continue working under the ad hoc committee of the distinguished Senator from Rhode Island, Mr. PASTORE, in hopes of developing a comprehensive plan which will enlist the widest possible support. Let me emphasize that the leadership of Congress has been working on developing a consensus and a comprehensive alternative.

It is quite obvious that Congress and the country were somewhat taken aback by the President's proposals. The reason that we were taken aback is that we had instituted last fall the summit conferences on the economy. These conferences were first suggested on the floor of the Senate, by our distinguished leader, Senator MANSFIELD, and President Ford had what we thought were very comprehensive and far-reaching conferences with all sectors of the economy.

The record also shows that last fall, rather than coming out with a dynamic program for recovery, we were given more of a Madison Avenue approach with a WIN button. Certain it was that we were not going to raise taxes at that particular time, and the rest of it was just mere rhetorical suggestions. But the factors that the President considered in emphasizing and presenting that program were reiterated by him throughout November and on into December.

For example, the President stated, on the 11th of December, to the Business Council:

This administration, I can assure you, is pledged to protect the consumer buying power or consumer purchasing power as an essential element of sustaining and strengthening the free enterprise system. If there are any among you who want me to take a 180 degree turn from inflation-fighting to recessionary pump-priming, they will be disappointed.

Mr. President, in almost less than a month, President Ford made that 180 degree turn. Nor did he show anything that had occurred within that month as factors that would warrant the extremeness of his position taken on January 12.

He bolstered the position when his Secretary of the Treasury, his No. 1 economic spokesman, stated to the Joint Economic Committee:

It is the price of oil itself, not financial repercussions, which is the real source of trouble in the world economy.

Who could have expected that on the 12th of January the President would come on national TV, having reiterated this about the price of oil, and raise it? In fact, in the interim, a Business Week interview with the President's chief adviser, the Secretary of State, appeared, and it related to invasion or actual war which the Secretary said would be warranted by a strangulation of the economy. That statement was not controverted; it was modulated somewhat with the added emphasis about the strangulation of the world economy, but the substance was the same. And that was the period, of course, when the President was saying himself that he was not going to be raising any prices. Here his Secretary of the Treasury was saying under no circumstances could prices be raised, because that was the chief reason for the disruption in the world economy. Here was the Secretary of State almost declaring war. And then, in action, on December 30, the President vetoed the cargo preference bill.

The President stated, in his veto message:

This bill would have the most serious consequences. It would have an adverse impact on the United States economy and on our foreign relations. It would create serious inflationary pressures by increasing the cost of oil and raising the prices of all products and services which depend on oil.

Do you know what the raise was? Twelve cents a barrel. So here was the President, in all solemnity, overriding an overwhelming majority of the Senate and the House of Representatives in their endeavor to try to contribute to our national security with a carriage capacity for crude oil, in trying to contribute to safety, with all the oil pollution accidents, spillage, and other evils, by bringing at least 30 percent of that carriage under American flags, with American bottoms and American crews. And while the President said later in his message that he is certainly supportive of our maritime industry and our merchant marine, he certainly implied that 12 cents a barrel would wreck the economy, it would contribute to the inflationary pressures on not only oil, but every product.

Then 12 days later, he was racing the Speaker of the House, the distinguished CARL ALBERT, to go on TV to raise it $3 a barrel. The serious inflationary pressures the President worried about with a 12-cent increase disappeared in all the ballyhoo advocating a $3 increase.

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

Mr. HOLLINGS. I am delighted to yield to my distinguished colleague from Minnesota.

Mr. MONDALE. As I understand it, he President's authority for imposing the $3 tax on foreign oil can be justified on the ground that he has found it necessary in the interests of this Nation's security to do so. Absent that finding and the facts and the justification for that finding, the President does not have the authority, on his own, to do what he is proposing to do.

If that is true, one wonders, and perhaps the Senator from South Carolina could help me understand it, what national security he finds being risked by the importation of Canadian oil. Was the Senator aware of any plans by the Government of Canada to invade the United States?

Mr. HOLLINGS. No, I say in response to the question of the Senator from Minnesota, and his question is indicative of where the majority of our imports, which amount to approximately 35 percent of our consumption, come from. Only 6 percent comes from the threatened areas where there is an altercation in the Middle East. Only 6 percent comes from that particular area. The remainder of the percentage comes totally from Canada, Venezuela, Nigeria, Indonesia, and around the world, where there is no threat whatever; and in fact, as to the amount, I quote what the President said in December, last month:

In 1974, at this point, the use of gasoline has been less than the anticipated growth. In other words, we are using less now than the experts forecast we would use when we were laying out the charts as to the antici-

pated demand. The net result is that we have more gasoline in storage today than we had a year ago at this time.

So he was talking a month ago, in addition to the price, about the abundance.

Mr. MONDALE. The reason I asked that question is that we have just found that at a minimum, just my State alone, Minnesota, will pay $100 million more next year for Canadian oil than we are paying this year if the entire $3 per barrel fee is imposed; and the reason the President says we must pay that $100 million is that to take more Canadian oil threatens our national security.

Does the Senator from South Carolina know on what basis Canadian oil undermines America's capacity to defend itself?

Mr. HOLLINGS. I do not. I just do not have the answer to that at all.

I think, of course, in fairness to the President's position, he is trying to emphasize, in a way, the dollar outflow. This is the emphasis being given now by Democrats, in a studied way. If the principal threat is inflation-recession—and we believe it—and a secondary threat is the energy crisis, let us not, in an inconsiderate and panic-stricken fashion, run first to the energy crisis by clamping on high excise taxes, by running up the price of everything manufactured in Minnesota and by causing and exacerbating the unemployment picture involved in inflation-recession. Such a policy would only exacerbate the principal threat, which is inflation-recession. On the contrary, let us work deliberately on the inflation and on the recession, and then, if we can, let the ordinary forces of the economy take root and get a better footing by June, let us say. The banks are lowering interest rates, the savings and loans do say they have greater deposits, and the prices of automobiles, rather than being raised, as they were 3 months ago, are now being rebated, so we are seeing what appears to be a softening.

We do not want to disrupt economic improvement with the inflationary sweep of an excise tax. We were coming down from 12 percent to what was projected last month as an 8-percent rate of inflation by December 31, 1975. Let us not turn that completely around.

Can you imagine a $54 billion added fuel bill? Let us not, by coming along with $54 billion added to the fuel bill, turn completely around to an 18-percent inflation rate by December 1975.

The PRESIDING OFFICER. The Senator from South Carolina's time has expired.

Mr. HOLLINGS. Mr. President, let me ask the distinguished floor leader——

Mr. ROBERT C. BYRD. The Senator would get, Senator MONDALE can get, time.

Mr. MONDALE. I would like to carry on this colloquy.

Mr. HOLLINGS. I can get the time from my distinguished friends from Maryland and Alabama. They will not mind.

Mr. MONDALE. As I understand the study by the Library of Congress, the President's program will add 3 percent to the Nation's inflation and the cost of doing business. They predict a 12-percent inflation rate would continue through this year rather than dropping, say, to 8 percent as the economists predict. That is the cost of doing business for American businesses.

Does that not fundamentally and adversely affect our ability to sell competitively in world trade and because of that perhaps contribute substantially to deterioration of the American balance of trade, which is what they claim is the reason for their order?

Mr. HOLLINGS. We are in world competition. We are in the era of the multinational corporations. Factories that have located in my State have done so because we are competitive, not necessarily on labor costs, but we have in America cheap energy.

Now, the one advantage we have in that balance of trade, internationally, has been the cheap energy cost. Now comes the President, telling the Arab sheiks that we are sorry, they are right, we were wrong all last year when we were threatening war and pleading for lower prices. Now we throw away that bargaining card with our negotiations in the Mideast and adopt an adverse balance of trade situation, crushing the jobs and crushing that export market from the United States.

Mr. MONDALE. I am glad to hear the Senator say that.

We called the Department of Commerce, which has a big computer over there which they use to predict what happens with various policy alternatives so they can find out on a quantitative basis what the result of a policy will be before it is implemented, and we said, "Would you please run the President's plan through your computer and tell us what its effect would be on the competitive posture of American business in international trade?"

They said, "Let us think about it," and they called back an hour later and said, "We cannot do it."

We said, "Why?"

They said, "That would be political."

Does the Senator agree that is a political question?

[Laughter.]

Mr. HOLLINGS. That is a political rejoinder they have given to the Senator from Minnesota. This "plan" must have been hastily drawn.

We are having amendments. While we are accused of not being comprehensive, of not giving a total, of nitpicking, we just happen to be going to the arithmetic of the matter. Let us talk about the rebate the President proposes. What it is under the $16 billion rebate program is $250 for an average family.

But, may I say to the Senator from Minnesota, if the energy bill goes up $54 billion, and there are 200 million Americans in 50 million families of 4, when you have given them, on the one hand, the $250 rebate, you have taken from each of those families $1,000 in energy costs. Paul McCracken says corporations do not pay taxes, they pass it on to the consumers, so you have taken away $1,000 with a net loss of $750. And yet the President again says "I am not going to wait," in the morning Post:

I want you to approve my excise tax or give me an alternative.

We are going to vote down that excise tax and, in essence, rebate every American family $1,000 when we kill it, if we can.

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

Mr. HOLLINGS. Yes, sir.

Mr. MONDALE. The President says he is going to take his plan to the American people, and I hope he does, because it goes something like this: Take a family with $10,000 a year, family of four, I guess that is about the average income in the average-sized family. Under his proposal, the cost of living will go up about $340 to $350 a year. In other words, it will cost them that much more this year to live, because of the President's proposed increases in the cost of energy plus the ripple effect.

But he is going to send them relief, and they are going to get a hundred dollars worth of relief. They are going to get $50 in April, and they are going to get another $50 in September.

Is it the impression of the Senator from South Carolina that the American people will think that is a good bargain?

Mr. HOLLINGS. Well, not at all. To emphasize what we just stated, and the Senator has so perceptively put his finger on what the real target is, we had a little contest with an insurance company down in Columbia, S.C., years back when they were trying to get a slogan, and one of the winning slogans that was recommended was the "The Capital Life will surely pay, if the small print on the back don't take it away." That is exactly what the President has come around with. He has got all his writers and TV screens and the weekend newsboys talking about the President's homework, homework, homework. But the news crews have not done their homework. If they will look at this thing closely, they will see it just in that light, riding up the price of fertilizer and thereby the cost of food, upping the cost of transportation and thereby the cost of food and the other vital necessities, putting the airlines and railroads almost into a position of bankruptcy. How are they going to pay for these added fuel costs.

Mr. MONDALE. I thank the Senator.

Mr. HOLLINGS. Would the Senator yield just a minute and let me——

Mr. MONDALE. I yield my time to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the point is that we are not going about this in a haphazard way. We resolved as Democrats the matter of automobile fuel economy this morning, which will be in today's news. That is part of the deliberate approach, and when I say deliberate, it will take us 2 or 3 weeks to work it on through, because there will have to be a general consensus. But while that is occurring let me emphasize

that under the Constitution the House should handle these economic factors. It would be good for us to have hearings about rebates and/or tax reductions. I have already submitted my complete program on both scores. But it is wiser to let them have the hearings and let the picture develop there and we follow along with whatever modifications we feel necessary. We might even adopt the President's rebate program rather than canceling taxes. But the fact is when we vote down an excise tax, it does not mean we stand still on the matter of energy. We ask for an Energy Production Board to be instituted immediately in order to oversee the immediate development of Petroleum Reserve No. 4, stepped up leases in the Gulf, and hard oil in Alabama and California.

We ask that Congress get moving with respect to automobile fuel economy, and Senator JACKSON'S Energy and Fuels Policy Study Committee commences its hearings at 10 o'clock in the morning to develop these programs. And we are asking that in natural gas we get a statutory formula. In all these measures, you can see that what we are doing here is not running around in confusion, but trying in an orderly way to develop an energy and development conservation program here in January–February, and trying to put first things first; namely, inflation-recession. It should be on that front burner, and we must look at it deliberately, not jumping into radical action.

The program of the President, and I say this not with political rancor, because I have great admiration for President Ford and I have just returned from a prayer breakfast with him and we pray for his success—but there is no other way to characterize his program in energy than radical, reckless, and ruinous. We cannot go on that excise tax route.

On the contrary, what we are trying to do is let that stay back until June and let the natural forces of the economy take place. We think we are seeing some recovery and we hope that we can accelerate it with the economic rebate and perhaps action in taxes. Then, in June we can have a better look and try, with the various conservation measures that we hope to impose during the spring, to see what kind of import quota would be necessary and then to supplement or replace the amounts lost from an import quota to come forward with an allocation program and then after a trial period during this year to, let us say November or December, if the allocation program cannot work, then go in that instance to rationing. I am prepared, I voted for rationing last year. We should have done it when the Arab oil embargo went in, but I think what we should emphasize at this point is that our program is comprehensive, it is total, and it is considered, and we are working at it.

Mr. President, the risks of too hasty and reckless a response should be appreciated by everyone. In last Sundays "Outlook" section of the Washington Post, Mr. Richard Whalen, one of our country's most perceptive national observers, addressed himself to the current plight of the economy and to the dangers of overly hasty response. Mr. Whalen speaks authoritatively on the nature and potentials of the economy, and his article should spark lively discussion. So that it may have the widest possible audience. I ask unanimous consent that the article be printed in the CONGRESSIONAL RECORD.

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

MAKING BAD TIMES WORSE

(By Richard J. Whalen)

After one of the more abrupt self-reversals in modern White House history, President Ford is now marching virtually in step with the Democratic opposition on economic policy. He has embraced the conventional wisdom—that steep recession, not inflation, is the enemy—and he proposes to fight it by amassing at least $80 billion in budget deficits over the next 18 months.

To a non-economist, the new consensus policy would be more reassuring if there were not such a strong whiff of panic about it. Scarcely three months ago, many of the same distinguished economists who are now urging massive fiscal stimulus were purring professional agreement on the need for a taut fiscal ship until double-digit inflation was whipped. From their vantage point atop the economic "summit" last fall, most failed completely to foresee the sharpness of this winter's downturn. The worrisome question arises: What are these experts failing to foresee now?

To be sure, some are full of a belated but amply justified humility about the shortcomings of their inexact science. Amid the rubble of their econometric models, they confess the same perplexity and fright as ordinary men. For example, Arthur M. Okun, the former chairman of the Council of Economic Advisers, last month told the Senate Budget Committee: "In the past few months, the nation's economy has been deteriorating at a rapid rate that, to me, in all candor, is frightening. It simply has no parallel in my professional career."

The decline has indeed been swift—real GNP plummeted at an annual rate of 9.1 per cent in the closing months of last year—but it is by no means unprecedented or even especially mysterious, despite Okun's statement. Like most of us, he is fortunate enough to have spent most of his adult life enjoying an extraordinary period of sustained prosperity, marked by relatively mild recessions. Since the mid-1960s, however, the boom has shown more and more evidence of inflationary excess. And now, as has happened before, inflation is yielding to deflation through the corrective forces of the marketplace.

CHILDREN OF THE BOOM

But we children of the boom are terrified to see it ending. We demand it continue, for we are accustomed to having our way in a world we have dominated for a quarter-century. We are haunted by the Depression our fathers suffered and by the nightmare of another cumulative deflationary spiral, which, should it materialize, would mean a far steeper fall because of the immensely greater height of our national prosperity. We refuse to see that the real question before us now is not how to escape the inevitable pain of deflation, but how to avoid making bad times cruelly worse.

In testimony last month before the same Senate committee, economist Otto Eckstein expressed this grand refusal that has now become a consensus. "The time is at hand to reverse our economic policies," he declared. Whether the fight against inflation is won or lost, the risk of recession degenerating into near-depression has now reached the point where common prudence requires stimulus."

In other words, whether or not we cure the disease, we need a pain-killer for the patient. That would indeed be the prudent thing to do if the patient were not already suffering an overdose of this particular pain-killer. The patient is sick in the first place because of rapid inflation, and another massive dose may not simply deaden the pain but put him under once and for all.

One needn't be an economic expert to know that inflation is at the heart of our recessionary affliction. Economists may cling to the belief that inflation and recession are opposites, but it is evident to ordinary citizens that it was inflation which reduced their ability to buy, inflation which pushed the poor deeper into poverty and those on modest fixed incomes closer to becoming poor, inflation which triggered companies' sales slumps and layoffs, inflation which brought on our general economic decline. They may differ on what to blame for inflation—oil, bad crop weather, "administered" prices and wages, Vietnam, generally excessive expectations, all of the above—but its ultimate recessionary impact is clear.

And yet, knowing all this, we are now asked to abandon the fight against inflation, a fight we never really started. Rather, the resistance has consisted almost exclusively of Federal Reserve Chairman Arthur Burns' stubborn unwillingness to ratify double-digit inflation by pumping up the money supply accordingly. Practically everyone else in government, like the French troops on the Maginot Line during the lull before the storm, scarcely knew there was a war on, unless they accidentally stuck themselves with their WIN buttons. Budget Director Roy Ash, who learned his economizing while at Litton Industries building very expensive ships for the Navy, defied anyone to make meaningful cuts in a $300 billion-plus, mostly "uncontrollable" federal budget.

DISTORTED PICTURES

The explanation for our irrational tolerance of rapid inflation presumably can be found in a blind fear of deflation that has distorted our perception of the world around us. Since the enactment of the Employment Act of 1946, intended to cushion a postwar depression that never materializd, only one statistic has been guaranteed to prompt economists and politicians to break into a cold sweat—a sharply climbing unemployment rate. As it happens, this is also the economic statistic that the news media feel most comfortable with. A "soaring jobless rate" tells its own story.

Or does it? As the overall unemployment rate rose about 7 per cent last month, making headlines, causing the cold sweats and forging an anti-recession consensus, the "hardship unemployment rate"—those out of work 15 weeks or longer—rose to 1.4 percent. The unemployment rate for heads of households was 4.5 percent and for married men 3.7 percent. Most of these people were receiving unemployment benefits and, in the case of auto workers, supplemental benefits that raised total income close to their take-home pay while working. We were properly depressed to read of "the greatest number of people unemployed since the Thirties"—and probably did not remind ourselves that the civilian labor force meanwhile has grown two-thirds larger. Unemployment was high among teen-agers (18.3 percent) and blacks and houswives, but they, too, had beneath them the economic safety nets created by a compassionate and rich society.

This is surely not to make light of the jolting experience of losing a job, of the distaste for being on the dole, of the boredom, the uncertainty and the anxiety about the future of the family. But in terms of social hardship, present unemployment bears no resemblance to that of the 1930s or even the 1950s.

Nonetheless, witness Eckstein struck the deepest fear nerve when he warned the senators that unemployment might persist above 8 percent and wondered "what such an ex-

perience would do to the American people's attitudes toward our economic system or toward each other." What ever it might do to the economic system or to social stability, the senators knew what that kind of raw unemployment statistic could do to any officeholder who didn't try to "do something." And, according to the post-Keynesian orthodoxy, the something to do was to cut taxes, spend freely and rapidly expand the money supply.

OUR NATION OF DEBTORS

If the unemployment problem, while always distressing, is not as calamitous as it seems to most, the inflation peril is not only as bad as it appears but potentially much worse.

During the past generation, for the most part, we have lived extremely well, at least in the envious eyes of the rest of the world. But what has been the secret of our splendid prosperity? How have we paid for it?

In a word: debt. Debt so unimaginably large in the private and public sectors alike—some $2.5 trillion, according to the latest count—that the idea of ever paying off any substantial part of it is unthinkable. McGraw-Hill's economists recently totaled up the categories: $1 trillion in corporate debt, $600 billion in mortgage debt, $500 billion in U.S. government debt, $200 billion in state and local government debt, and $200 billion in consumer debt. Merely to pay the interest due this year, they calculated, would take a sum more than one-third the GNP of the next biggest capitalist economy, Japan.

As might be expected, our nation of debtors has a vested interest in cheap, plentiful money—that is to say, in a devalued currency—because this eases the burden of repayment. The dollar that was worth 100 cents in 1939, and 48 cents in 1959, is currently worth less than 25 cents; if it continues to weaken at this rate, it will self-destruct sometime in the early 1980s. Is the progressive crippling of the dollar through inflation a legitimate source of worry to anyone other than gold cranks and right-wing hucksters of apocalypse? Does it have any real bearing on our ability to manage the U.S. economy and mitigate the effects of recession? The answer to both questions is yes.

After a generation of global expansion, the United States discovered in Vietnam that it is not exempt from the constraints which apply to other nations. When limits are overstepped, penalties follow. What is true in foreign policy is equally true, but much less clearly understood, in international financial and monetary affairs. Foreigners holding dollars are, in effect, our creditors. The penalty for reckless over-expansion of the U.S. dollar overseas has been the collapse of the world monetary system created in 1944, two dollar devaluations since 1971, and an entirely new exposure of the American economy to foreign demands and pressures.

In a world of floating paper currency, which have no officially guaranteed rate of exchange in the money markets, the international purchasing power of the dollar may fall even faster than its value at home. This has the effect of making imports more costly, thus further boosting domestic inflation. It also makes U.S. food and raw materials cheaper for foreigners—like the canny Russian grain traders—and consequently scarcer and more expensive for Americans.

This is no argument for building "protective"—actually, imprisoning—walls around the U.S. economy. It's much too late for that anyway. But it does mean that those managing the U.S. economy in Washington are bound to anticipate and respect the moves of their counterparts in Bonn, Tokyo, and other key centers within the new integrated world economy. If the United States opts for more inflation, penalties will surely follow.

PRINTING MORE MONEY

But the money markets might as well be on the dark side of the moon so far as the ordinary American is concerned. He is worried about the beast he encounters at the supermarket, which devours his purchasing power through spiraling prices. Yet the price effect of inflation is actually the tail of the beast, the final consequence of an inflationary chain of cause and effect.

Inflation begins with the creation of money, either by running the printing press or by expanding the lendable reserves of the banking system, at a rate faster than the economy produces goods, performs services, and creates real capital in the form of savings. Thus government, which has a monopoly on creating money and expanding credit, is where the inflationary scapegoat's horns belong. The rest of the beast consists of almost infinitely complex results and consequences.

For example, the insurance company executive, looking toward the turn of the 21st Century and beyond and calculating what the billions of dollars under his management will then be worth, gives the order: Stop writing mortgage loans. As the pool of long-term capital for housing loans shrinks, interest rates rise—and accelerating inflation causes other lenders to drop out and the pool to shrink further. As a result, millions of Americans who thought one-family houses in suburbia were part of their birthright find themselves living in "mobile homes," priced out of the market as a consequence of a remote lender's prudent fiduciary decision.

Or consider the businessman contemplating expansion. High inflation has laid his company's stock low. Why? Market analysts know his "real" profits are shrinking and they mark down the price-earnings ratio accordingly. As inflation drives up interest rates, investors desert the stock market for higher yields elsewhere, especially from government debt issues. With the stock price battered down to below the book value of the company's assets, issuing new stock to raise capital amounts to giving away part of the company.

Money set aside by the businessman to replace obsolete equipment (depreciation) and boost productivity cannot keep pace with rising costs.

The businessman must calculate the continued rising costs of labor and equipment in arriving at a potential future rate of profit. If inflation-driven wages are rising much faster than the company's output, profits will be inadequate to justify expansion, unless he looks overseas. (Unions are right to be worried about "runaway" plants and lost jobs, but some soul-searching is in order on runaway wage increases, too.)

And so, in the end, our businessman has no choice but to go to his banker and add to his company's debt. This is the path droves of American businessmen have followed in recent years as pyramid of corporate debts have risen to a dizzying height. It now amounts to 15 times after-tax profits, more than twice the 1955 figure. Even more worrisome, many businessmen have borrowed short-term (the only way the banker would lend) to finance long-term projects, and this has greatly increased their vulnerablity to recession and reduced cash flows.

And then, with bankruptcy looming, he turns to Washington—which helped get him and his company's stockholders and workers in trouble in the first place.

MAKING MATTERS WORSE

Keynesian economic orthodoxy no longer makes sense because it has lost touch with reality. The presumed "stabilizer" of government has grown so large and demanding during the past two generations that it has become in practice the chief destabilizing force in the economy. The non-productive government sector of the economy (federal, state and local) has grown in recent years three to four times faster than the productive private sector. The burden of government has grown proportionately, both directly (in ever-increasing taxes) and indirectly (through competition for capital and a host of bureaucratic interventions and regulations that raise costs, waste resources and reduce profits). Consider this government contribution to productivity: Individuals and corporations spend an estimated 130 million man-hours a year filling out government forms, excluding tax returns.

When overgrown, wasteful and demanding government achieves a certain "critical mass," its nature seems to change. It becomes incapable of translating good intentions into deeds. Often it is so muscle-bound it cannot move at all. It becomes its own—and the public's—worst enemy. Because it must spend, tax and borrow prodigiously, for no purpose beyond maintaining its own momentum, it drains much more money from the private sector than it intends and far more than it can restore without accelerating inflation. As individuals and businesses are forced to cut back their spending and the economy slows, gargantuan government lumbers to the rescue, but only makes matters worse.

If this seems too abstract a critique, consider last week's announcement that the Treasury will be compelled to raise $28 billion in the money markets during the next six months to cover its huge deficit, which will push aside other would-be borrowers, keep the housing industry depressed and hamper the economy's recovery. If that is not King Kong government, what is it? The Australian economist Colin Clark once reckoned that a government's nature was transmuted when the public sector claimed one-third of a nation's income. Total spending in the U.S. government sector now equals 40 per cent of national income, or by an estimated $500 billion this year.

DUBIOUS JUSTIFICATION

The dubious justification for the anticipated $80 billion-plus cumulative budget deficit through June 1976—a torrent of red ink unprecedented in peacetime—is the sheer size of the $1.4 trillion U.S. economy. A specious comparison is made between the expected $32 billion to $35 billion deficit and the $314 billion budget for the current fiscal year. Perhaps the most ludicrous comparison matches the deficit against the total population, a contemporary version of the New Deal line about owing it to ourselves.

The relevant comparison is between the size of the federal deficit and the size of the pool of real capital—that is, savings—available to finance it—in addition to financing all of the other public and private credit needs of the country. Not only government's direct claims on the nation's capital are growing at an alarming rate. The indirect claims of the mushrooming "off-budget" federally sponsored agencies, such as the Export-Import Bank, and the Federal National Mortgage Association, are also soaring. A decade ago, federal agency debt was just $16 billion. Now it is $90 billion. Finally, there are the skyrocketing credit demands of state and local governments and government-sponsored authorities. Caught in the squeeze between rising expenditures and falling revenues, municipal governments borrowed a record $27 billion in short-term debt in 1974, much of which wil soon have to be converted into long-term debt.

Last year, all levels of government absorbed fully 60 per cent of the funds raised in the nation's long-term capital markets. In 1975, according to Treasury Secretary William Simon, who is properly "horrified" at the prospect, the government sector's credit demand will take as much as 80 per cent of available

long-term capital. Plainly, that is much too much if the nation is to regain prosperity.

Thus once again the Federal Reserve and Chairman Burns are alone on the anti-inflation front and plainly on the spot. Burns, a life-long student of business cycles and a pragmatic conservative, is immune to the panic rampant among the politicians and orthodox Keynesian economists. He is not afraid of deflation—quite the contrary—but he will do what he reasonably can to cushion the effects of the decline.

Specifically, in recent months this has involved almost daily behind-the-scenes bolstering of shaky giant corporations such as W. T. Grant, which the nervous banks agreed to refinance with the Fed's backing. To discourage congressionally dictated (and politically motivated) credit allocation, the Federal Reserve in the months ahead probably will err on the side of ease—and pray for the best. But it cannot go nearly as far as the politicians will demand without creating the potential for a renewed and more virulent inflationary spiral—on the order of 20 per cent—in 1976–'77.

THROUGH THE WRINGER?

Are we then obliged to go all the way through the wringer? Having come this far—much farther, in fact, than is generally realized—we should not flinch at the rest of a process that holds the promise of restoring non-inflationary prosperity. Because of the lags between various sectors of the economy, some of them—for example, housing—appear headed for recovery within the next several months if panic-stricken government does not batter them with a new wave of inflation.

Ultimately, the consumer is the prime mover in the American economy, and the key to recovery will be the restoration of his ability to buy, which means his disposable income must rise and prices fall to close the consumption gap. This is now occurring, in response to market forces.

The consumer truly went on strike last fall. In the third quarter of 1974, personal consumption expenditures rose $32.2 billion. But in the final quarter, consumer outlays fell $4.5 billion, the first such drop in 14 years and the sharpest since 1951. Auto sales sank 30 per cent, and the manufacturers soon were looking at an inventory of some 1.6 million unsold new cars. Their response has been "the battle of the rebates," a form of disguised price-cutting.

Like the auto-makers, many other industrial manufacturers also cling to "official" list prices while making sales at lower prices under various discount schemes. The reason is obvious: Business fears another government price "freeze" and a new round of economic controls. The maintenance of artificial list prices provides a measure of protection for profit margins squeezed by cost-push inflation.

Thus the memory and prospect of government intervention interferes with the mechanisms of the marketplace. As a result, the arrival of a healthy deflation, the surest means of ending the buyers' strike, is still not widely appreciated. Fortunately, the timidity of the "concentrated" and politically vulnerable industries will be more than compensated by the aggressiveness of smaller businesses closer to the wary consumer and hard-pressed for cash. As retailers seek to move costly excess inventories off their shelves, well-advertised price-cutting will become commonplace.

Deflationary signals will flow backward from the point of final sale through the chain of supply, compelling an adjustment of production. Within the first six months of 1975, large-scale inventory liquidation will occur. The effect will be to bring wholesale and retail prices closer to levels that can be supported by the consumer's disposable income.

THE WIZARD OF OZ

Orthodox economists behave as though falling prices were somehow un-American. They would rather attempt to pump up consumer demand to support inflated prices. But the consumer is smarter than his government. Since last summer he has sharply increased his rate of personal savings, a prudent and rational reaction to persistent inflation, higher taxes, increasing layoffs and pervasive uncertainty. If he is presented with an income tax windfall, the chances are excellent that he will sock the money away rather than spend it, thus temporarily defeating the policy of stimulus. But the consumer who pays off debts and rebuilds savings will be in a position to spend freely on the bargains that deflation will create.

But will he still have a job then? His chances are immeasurably better if he and his neighbors can afford to buy each other's products and services. If he temporarily loses his job, we are all much better off supporting his household's cash flow and helping him find another job than we are pouring inflationary demand into the entire economy, which will set off the price-wage spiral again.

Businesses caught in the slump ought to qualify for temporary support as well, provided they are not merely seeking a bail-out for mismanagement. Here, we urgently need from the Congress a creative burst of institutional innovation, perhaps not a revived Reconstruction Finance Corporation, the New Deal's answer to deflation, but a more limited and sophisticated means of guaranteeing the bank loans of sound, asset-rich companies temporarily short of cash. Flexible business tax cuts would obviously be helpful if an equitable formula can be devised. To the inevitable objections to such a "pro-business" measure, there can be only one reply: are workers better off keeping their jobs with government-aided companies or going on the dole?

Sometime next summer, the buyers' strike should be visibly over—and so will be the liquidation phase of the business cycle. Then, the process should rapidly reverse itself as businessmen attempt to replenish inventories by placing new orders, causing factories to recall laid-off workers and hire new ones. All this can happen, following the classic pattern of recovery, provided Washington does not launch a new inflation.

The curtain has been torn away and we have seen the Wizard of Oz. The orthodox economists and their political allies do not have the secret of perpetual, recession-proof prosperity, as we assumed and they pretended over the past generation. But we still have something better—a market economy to correct excesses and restore prosperity.

PRIVILEGE OF THE FLOOR—SENATE RESOLUTION 4

Mr. MONDALE. Mr. President, yesterday I asked unanimous consent that Mr. Robert Barnett be given floor privileges during the period that Senate Resolution 4 is pending on the calendar.

I modify my request to ask that he be given floor privileges at such times as Senate Resolution 4 is actually pending and during the votes thereon.

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

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Minnesota.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I understand that Senator MUSKIE and Senator MCCLELLAN are on their way to the floor to introduce a resolution jointly, after which, unless other Senators have business, the Senate will go over until Monday.

I, therefore, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

THE CANCELLATION OF THE LINCOLN DAY RECESS

Mr. WILLIAM L. SCOTT. Mr. President, I am including in the RECORD today a copy of my regular newsletter report to constituents and within that newsletter is a paragraph about visits to the western district of Virginia.

Our State, even though it is just across the river, is more than 450 miles long and I do not get an opportunity to visit in the western part of the State as much as I would like to.

I have sent out over 500 letters to local and State officials in the area advising them that I would be at a certain place on a certain day during the Lincoln Day recess, and I am going to keep that commitment.

I made the commitment relying upon the information by the joint leadership that we would have 1 week of recess and I would urge that the leadership not have any important legislation during this week.

It seems reasonable to me that the leadership plan—I think it is essential that the leadership schedule our program, and we look to them for that purpose, but having made the commitment to the Senators, and this is not a partisan position but it applies to all 100 Members of this body, having told us that we would have the recess for that week, I feel there is an obligation, absent some emergency situation, for us to be able to rely upon the statement of the leadership.

The rescheduling now having been made, I do urge that there be no important matter taken up. But should an emergency arise, each Senator should be advised so that he could get back to the Senate.

Mr. President, I ask unanimous consent that my newsletter be printed in full at this point in the RECORD.

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

YOUR SENATOR BILL SCOTT REPORTS

FAR EAST VISIT

Shortly after Christmas while Congress was not in session, Senator Strom Thurmond and I visited nine countries in Southeast Asia on behalf of the Armed Services Committee. We had conferences in each country with our American Ambassadors, with American military advisers, and foreign military leaders, as well as the president of seven of the nations, and a number of other political leaders. The countries visited were Japan,

Korea, Taiwan, Vietnam, Cambodia, Singapore, Indonesia, Thailand and the Philippines. The United States appears to be very highly regarded in all of these nations, and the people appear to be grateful for the military and economic support we have given them over the years. We explained that even though our country is rich and powerful, we do not have inexhaustible resources and suggested that they and their neighbors should endeavor, to the extent their resources will permit, look after their own interests.

The government on Taiwan, known as the Republic of China, is fearful that our government may, at some time in the future, recognize Red China and comply with its desire for a severance of relationship with Taiwan. I conveyed this concern to President Ford and expressed the hope that he might have an opportunity to visit Taiwan or to send a high official of the Executive Branch to visit so that he would more fully understand their concern about our relationship to Mainland China.

In Vietnam we found that the North is completely disregarding the truce agreement and, in fact, has stepped up its operations, sending several hundred thousand troops into the South together with additional military equipment of all kinds. Most of the war material apparently is Russian-made, although Red China is also supplying material to North Vietnam. South Vietnam appears to be making a major effort to defend itself but is handicapped by the lack of a sufficient amount of ammunition and military equipment. President Thieu, our Ambassador and others indicated that additional equipment is essential if South Vietnam is to repel the invaders or to prove to them that further aggressive action will not be successful. I have great sympathy for this nation where the citizens have an annual individual income of approximately $150 but am fearful that our aid would have to continue for an indefinite period of years and at a very high rate to enable South Vietnam to become self-sufficient and to repel the invaders.

The situation is even worse in Cambodia, where the invaders are attacking the capital city of Phnom Penh and the Lon Nol government controls only 20% of the territory containing 80% of the people. Refugees continue to stream into Phnom Penh, and it is very difficult to find sufficient food to feed them. The communist aggression appears inconsistent with the spirit of détente which we hear so much about and at a meeting with President Ford I suggested we advise Russia and Red China that we could not help them develop their oil resources, truck factories, computer technology and do other things they desire when they were giving tacit approval to such aggression and furnishing large quantities of military supplies to the aggressors.

In Thailand, we are told that even though all territory was controlled by the Thai government, there were roughly 8,000 guerrillas in the mountains who would terrorize rural communities, then retreat into the hills and disperse when government troops appeared, only to form again when they left.

In Indonesia where the communists were successfully overcome some years ago, they continue to be active on some of the more remote islands. Even in the Philippines, martial law was declared several years ago as a protection against communist activities. President Marcos indicated that his action in imposing martial law was overwhelmingly approved by the people of the country in a plebiscite but he was going to put the matter before the people once more.

President Ford is expected to send the Administration's budget to the Congress very shortly, and it is anticipated that the military portion of it will be in the neighborhood of $100 billion. While we obtained considerable insight into the needs of the various countries and of the activities of our own government during this trip, my inclination is to continue to support a strong national defense for our own country but be reluctant in supporting military or economic aid to others unless it is coupled with similiar support from other nations within the free world. In my opinion, the communist menace is real but our country cannot continue to be the policeman for the entire world or practice détente without action indicating a corresponding desire for peace and friendship by the communist world.

NEW ATTORNEY

The President's nominee for Attorney General, Edward H. Levi, came by the office for a courtesy call because his nomination is subject to approval by the Judiciary Committee. We reviewed his background and qualifications in some detail, and also took the opportunity to discuss the conditions at Lorton penal institutions. He promised to become familiar with the Lorton situation to determine whether he could take any corrective action regarding this District of Columbia facility located in Fairfax County and a major concern to people living in the general area. I have introduced legislation to transfer jurisdiction of the penal institutions from the District of Columbia to the Federal Bureau of Prisons within the Department of Justice, but there may be other reasonable solutions.

PRESIDENTIAL VISIT

During discussion with President on fact-finding mission, suggestions were made regarding the proposal to extend the Voting Rights Act, and approval was urged for Interstate 66.

CONSTITUENT MEETINGS

Our State is rather long, it being more than 450 miles between the eastern and western tip. Therefore, it is difficult to visit as frequently as I would like in the western part of Virginia. However, during the Lincoln Day recess, I do plan on being with State and local officials of that area during the morning hours and with any constituent who has a matter to discuss during the afternoon hours.

The first meeting will be at the Martha Washington Inn at Abingdon on Tuesday, February 11. State and local officials have been invited to meet with me between the hours of 9:30 a.m. and 12:30 p.m., and other constituents between 1:30 p.m. and 5:00 p.m. The same format will prevail February 12 at the Holiday Inn in Wytheville; at the Hotel Roanoke on the 13th, and at the Holiday Inn in Danville on the 14th of February. Perhaps you can stop by during the time I am in your area and share a concern or opinion.

My regular visit to the Richmond office will be on Friday, February 7. The office is located in Room 8000 of the Federal Building, 400 North 8th Street, and you are welcome at any time during the day. However, if you desire a definite appointment, please call the office manager in Richmond at (804) 649-0049.

MAILING LIST

We want to send our newsletter to anyone in Virginia who would like to receive it. In the event you are not presently on the list and would like to receive the newsletter on a regular basis please forward your name and address to Senator William L. Scott, 3109 Dirksen Senate Office Building, Washington, D.C. 20510, and we will place your name on the list to receive future copies.

Please advise us of any mistake in your listing, any change of address, or duplicate copies so that our mailing can be corrected.

QUESTIONNAIRE RESULTS

You may be interested in the results of the opinion poll included as a part of our last newsletter. It appears that Virginians want a strong national defense but are very much opposed to additional foreign military or economic aid. They also have strong opposition to our helping communist nations develop their industrial capacity; want the government to encourage the development of existing and new sources of energy; desire wiser use of existing energy; but are opposed to rationing or nationalization. It is also interesting to note the opposition to government financed medical care for everyone. Of course, I will attempt to become fully informed on all legislation under consideration in the Congress before making a definite commitment or voting. However, having the benefit of your views is very helpful.

	Percentage		
	More	Less	Same
1. National defense	33.7	20.6	45.6
2. Space exploration	10.5	60.0	29.3
3. Energy research and development	82.3	5.0	12.5
4. Veterans benefits	17.5	23.4	59.0
5. Foreign economic aid	2.9	86.4	10.6
6. Foreign military aid	1.8	88.2	9.3
7. Social and welfare programs	9.8	69.9	20.1

Which of the following would you prefer in our relations with communist nations?

	Percent
1. Concentrate on domestic matters and leave the communists alone	35.4
2. Maintain a strong national defense and make no effort to obtain treaties with communist nations	40.6
3. Endeavor to limit military forces by agreement with the communists	40.9
4. Expand our trade with communist nations	39.3
5. Exchange space technology and conduct joint explorations	30.4
6. Help communists nations develop their industrial capacity in such fields as energy resources, modern factories, and computer technology	8.6
7. Help communist nations develop capacity to feed themselves	32.5
8. Endeavor to develop more friendly relations with communist nations	46.3

Which of the following energy policies do you consider best?

1. Unregulated private enterprise	29.2
2. Government assistance and encouragement of development of existing and new sources of energy	69.4
3. Relaxation of anti-pollution standards to encourage development of additional energy	46.9
4. Wiser use of existing energy	74.2
5. Rationing of energy	18.3
6. Nationalization of coal mines, oil wells, and other sources of energy	10.3

Which of the following approaches to health care would you prefer?

1. Present voluntary health protection under private insurance plans	57.4
2. Encourage the training of additional people to become physicians and nurses	64.7
3. Provide government financed catastrophic illness protection	37.0
4. Tax credit plans for medical care with government subsidies to low income people	26.3
5. Government financed medical care for everyone	14.6

ECONOMY AND ENERGY

The Congress has several controversial issues of considerable importance before it, one relating to the economy and another to energy. On the economy, the President is advocating a 12% refund on 1974 taxes and a reduction in taxes for 1975. Under his proposals there would be a deficit this fiscal year of approximately $30 billion and a deficit next year of approximately $45 billion, or a total of $75 billion during the two-year period.

This proposal is prefaced on no new spending programs, but with the makeup of the present Congress it is very probable that new programs will be enacted, adding further to the deficit. Of course the tax cutting proposal is made to stimulate the economy so that we will get out of the present recession. However, with an existing national debt of approximately $500 billion at this time, necessitating the government going into the money market and taking 60 to 70 percent of the available investment capital, only a little over 30% remains for the private sector to finance new or to expand existing enterprises or individual need for credit for homes or consumer goods. This situation would be aggravated considerably by the tax cutting proposal, and the individual refund would be dissipated quickly by the rise in the cost of living.

Car sales apparently are increasing because of the rebate being offered by the various companies and the stock market is improving primarily because of the cut in interest rates. Part of the package advocated by the President provides for a 12% investment tax credit for one year and a 3-year tax credit for utilities to expedite the conversion of power plants from oil or natural gas to coal and other energy sources. While the investment tax credit should tend to stimulate the economy and result in a greater use of our most abundant source of energy, coal, it would seem that a general reduction in taxes should await a reduction in government expenditures. Otherwise we may be faced with uncontrollable inflation.

The energy problem and the economy to some extent are tied together. In recent years, Americans have used more energy for air conditioning, new appliances and more automobiles and to some extent have turned from coal to the cleaner burning oil and natural gas. The Clean Air Act and other laws to improve the environment have had a regressive effect on the production and utilization of energy. These factors have been aggravated by the Arab embargo and by the increase in the price of oil by the oil producing nations. It is easy to agree with the program for self-sufficiency of domestic sources of energy but there is disagreement within the Congress as to how this should be achieved. The President has suggested an import tax on foreign oils to stimulate efforts to expand existing domestic energy sources and encourage new ones. It is a very complex problem to which the best minds in the country should be devoted and the conference in Washington some months ago did provide a variety of suggestions. Undoubtedly we need amendments to the Clean Air Act to permit wider use of coal; encouragement of greater production of natural gas, either by deregulating the price or other methods; use of shale oil in the West and offshore drilling along our coastlines; expansion of the domestic use of nuclear energy and every reasonable means to obtain more energy. I agree with the President's statement that reasonable revisions should be made in our environmental laws, weighing the needs of the country for additional energy against the common desire for clean, healthy air. The national interest also requires that we make wise use of our existing supplies of energy until the domestic situation is improved so that we will not be dependent on international sources.

SOMETHING TO PONDER

With modern medicine doing so well at increasing life expectancy, we'd better be careful about adding to the national debt—we might have to pay it off ourselves instead of passing it on.

Mr. ROBERT C. BYRD. Mr. President, I fully appreciate the problems that confront Senators when a change of scheduling occurs such as that to which the distinguished Senator has referred. However, I do not think that I could, in good conscience, say that the leadership will or should make a commitment not to bring important legislation to the floor during the week, which is ordinarily referred to as the Lincoln Day holiday. I have been around here a little while. I know that Senators have to get back to their constituents. I also realize that many of us utilize so-called recesses to conduct committee hearings here in Washington and sometimes field hearings in various areas of the country. The leadership felt that in view of the fact that the President had presented a program—we may disagree with parts of it but at least he has come forth with a program, which we did not foresee when we discussed the schedule late last year—and in view of the additional fact that there is a debt limit measure which has been requested by the administration—and we did not foresee this late last year when we discussed a recess schedule—and furthermore in view of the fact that there are major problems confronting the people of the country, the leadership felt that the Senate ought not proceed with those 5 days off during week after next.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. ROBERT C. BYRD. If I may finish my statement, I will then be delighted to yield.

I am attempting to state for the record, in response to a very pertinent question, what the leadership's position is.

The people of the country expect us to try to attend to these problems and we are endeavoring to do that.

Field committee hearings are important, and committee hearings in Washington are important. It is my intention, for example, to conduct hearings on an appropriation bill during the scheduled recess. About the only time I ever have in which to conduct a hearing on a matter is either on a Saturday, or late in the evenings after the Senate adjourns, or during periods of recess. However, now that the New Hampshire election dispute has been referred to the Senate Committee on Rules, I have good reason to believe that I will not be able to even conduct my appropriations hearings during the week after next. So I have empathy with what the distinguished Senator is saying. The leadership feels very badly about having stated that there would be a recess and then having to make a change.

We felt that in the good interests of the people, in the good interest of the Nation, and in the good interests of the Senate, the Senate ought not be out the week after next. The debt limit measure will come over next week. I do not know what day it will reach the Senate, but it very well could be that the Senate would feel it necessary to proceed with some debate on that measure the following week, if it cannot complete its business on that measure next week, which, hopefuly would be the case.

What I am trying to say is that I would not want the Senator to be disillusioned a second time by thinking, as he apparently hopes, that there will not be important legislation scheduled during that particular week. I am in no position to say what will be scheduled because I do not now know what the situation will be at that time.

I hope the Senator will understand that the leadership has in mind the problems of all Senators, and especially the problems that have been created by this decision. I hope he will believe that the leadership, as always, will attempt as best it can to accommodate the conveniences of all Senators.

I felt that I had to state that for the record on behalf of the leadership.

I am glad to yield.

Mr. WILLIAM L. SCOTT. Mr. President, I do not mean to be unduly critical of the joint leadership. But as the distinguished Senator from West Virginia will recall we did receive a letter, somewhat of an appeal to each Senator, saying that the leadership was trying to be liberal in its scheduling, that it was giving us advance notice so that we could make plans, and appealing to us to be here in the Senate for the conduct of business at other times throughout the year, subject to this scheduling that was announced. Then, the very first time we had a recess scheduled, according to this information, a change was made. It is going to be difficult in the future if we cannot depend, absent an emergency situation, on what we are told by the joint leadership. It is going to be very difficult for the Senators on both sides of the aisle to schedule their programs.

Again, I know the Senator has said that he cannot make a commitment, but I would urge, on my behalf and on behalf of all of the other Senators, that there be no important business transacted during this week because many of us have made commitments. I am sure I am not alone.

Mr. ROBERT C. BYRD. Mr. President, if I may say further on behalf of the leadership, I cannot make that commitment. I fully understand the Senator's problem. I do not think that we ought to bring the Senate in if we are just going to go through the motions of pretending to do some work. I do not know, as I have stated, what business will confront the Senate. I cannot see down the road that far ahead. But if the Senator will just try to understand the problems of the leadership and accept what I have stated as an understanding of the problems of the Senator on the part of the leadership, we will certainly take into consideration the situation of Senators. But we gain nothing if we say we are going to come in that week just to do nothing.

Mr. WILLIAM L. SCOTT. I appreciate the cooperation of the Senator.

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. I might say that I understand and appreciate the position of the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT), and sympathize with him in his predicament. No one enjoys

returning to his home State more than does the Senator from Alabama. When this recess was scheduled, the Senator from Alabama made commitments for nine speaking engagements in the State of Alabama, including three mass meetings of farmers in Alabama who are being crowded to the wall as a result of economic conditions.

I must say that I agree with the leadership in this area. I feel that we should be in session for the conduct of the Nation's business.

I might say further that all commitments that I made for visits and appearances to Alabama are conditioned on the state of the Senate schedule. For that reason, I was able to cancel these engagements without any hard feelings.

I do understand also the leadership problem and its desire and its recognition of the need for the Senate to be in session during these critical times.

I must commend the leadership on its decision.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from Alabama.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and I ask that when the quorum is terminated, the Chair recognize the Senator from Arkansas.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SENATE RESOLUTION 45—SUBMISSION OF A RESOLUTION RELATIVE TO THE REFERRAL OF MESSAGES CONCERNING THE BUDGET

Mr. McCLELLAN. Mr. President, on behalf of myself, Senator MUSKIE, Senator YOUNG, and Senator BELLMON, I send to the desk a resolution for appropriate reference.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

ORDER GOVERNING REFERRAL OF MATTERS DEALING WITH RESCISSIONS AND DEFERRALS

Mr. McCLELLAN. Mr. President, I ask unanimous consent that all matters now being held at the desk dealing with the rescissions and deferrals be referred jointly to the Committee on Appropriations, the Committee on the Budget, and any other committee which may have legislative jurisdiction over programs dealt with in the matters so referred.

I also ask unanimous consent that future matters dealing with these subjects be dealt with in the manner, including the time sequences, specified in Senate Resolution 45, which I have submitted this day, which has been referred to the Committee on Rules and Administration.

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

Mr. McCLELLAN. Mr. President, I wish to make this explanation: For a period of time, deferral and rescission messages have been held at the desk and not referred to any committee because of a question of appropriate jurisdiction. This matter has been worked out to the satisfaction of the Democrats in caucus, where the issue was discussed and where, afterward, Senator MUSKIE, as chairman of the Budget Committee, and I, as chairman of the Appropriations Committee, worked out a solution, as reflected by the resolution which has been submitted. This resolution, this disposition of the matter, has the unanimous approval of the Democratic Caucus.

The purpose of this resolution is to seek a Senate rule to establish this agreement as a Senate rule. In my judgment, this is an adequate, a proper, and an equitable solution that shows due deference to all committees of the Senate having any interest in the subject matter, and is one which will permit, if this rule is adopted, expeditious and efficient and effective handling of these deferral and rescission problems.

I hope, therefore, that the Committee on Rules and Administration will expedite the processing of this resolution and report it to the Senate at as early a date as it conveniently can.

I yield to the distinguished Senator from Maine.

Mr. MUSKIE. Mr. President, first, I express my concurrence in the description by Senator McCLELLAN of the agreement which was worked out today. I think it is fair and equitable and illuminates, in perhaps a useful way, the relationship between the Budget Committee and the other committees of the Senate, in a way that I hope will dispel any suspicion that we are going to be engaged in a running controversy over jurisdiction.

Second, I express my appreciation to Senator McCLELLAN for his understanding and graciousness in working out this agreement. I join him in commending it to our Republican colleagues.

I appreciate the fact that Senator YOUNG and Senator BELLMON have joined us in cosponsoring a resolution which they have not had as much opportunity to study as we have had. But that opportunity will be available as the resolution goes to the Committee on Rules and Administration.

I urge Senators to consider it, as I do, as an equitable solution of the problem.

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. I thank the Senator.

Mr. President, I have not had an opportunity to bring this matter to the attention of the Republican Caucus. This resolution deals only with matters that are now at the desk.

Mr. McCLELLAN. Yes. By unanimous consent, it deals with the matters at the desk now.

Mr. YOUNG. I am sure there will be no objection on the part of the Republicans. The Republican Caucus can, if it wishes, deal with the resolution which is being referred to the Committee on Rules and Administration.

Mr. McCLELLAN. Yes. The resolution is under all processes of regulations and rules of the Senate, and so forth. It takes that course. The resolution is subject to amendment by the Committee on Rules and Administration, and it is subject to amendment on the floor when that committee reports it.

I believe that when Senators have had an opportunity to study it, they will agree that, basically and fundamentally, it is in the interest of orderly procedure in the Senate, in the handling of these messages and resolutions thereon.

Mr. YOUNG. I commend the distinguished Senator from Arkansas, the chairman of our Appropriations Committee, and the distinguished Senator from Maine, the chairman of the Budget Committee, for resolving a very knotty and difficult problem.

Mr. McCLELLAN. I thank the Senator.

Mr. President, I yield to the distinguished Senator from Oklahoma.

Mr. BELLMON. I thank the distinguished chairman of the Committee on Appropriations for yielding.

Mr. President, this matter was discussed informally by the minority members of the Committee on the Budget and Senator MUSKIE yesterday. While we did not at that time have all the details, general approval was expressed of the thrust of the resolution.

Speaking for the minority on the Budget Committee, I believe I can say that we feel that the solution which has been worked out by the distinguished chairman of the Appropriations Committee and the distinguished chairman of the Budget Committee is in keeping with the intent of the Senate when the Budget Committee was established and when the procedure for rescissions and deferrals was set up here.

I believe, as Senator MUSKIE has said, that this helps to clarify the purpose and the intent of the Senate when the Budget Committee was established, and makes clear that the Budget Committee has a very definite mission to perform, one which we feel will help us devote our efforts to better handle the way our priorities are established and our resources are utilized.

I also join in commending the chairman of the Budget Committee and the chairman of the Appropriations Committee for the way this matter has been resolved. I believe that the minority, when we have had a chance to discuss it in caucus, will join Senator YOUNG and myself in sponsoring this resolution.

Mr. McCLELLAN. I thank the distinguished Senator.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I join Senators in commending the distinguished Senator from Arkansas (Mr. McCLELLAN) and the distinguished Senator from Maine (Mr. MUSKIE) in having resolved this very difficult and complex question.

I also express appreciation to Mr. YOUNG and Mr. BELLMON for their cooperation today and for the contribution they have made in enabling the matters that are at the desk to be referred.

MEMBERSHIP OF SELECT COMMITTEE

Mr. ROBERT C. BYRD. Mr. President, the leadership on both sides of the aisle have selected the members—and they have been approved by the Senate—of the Select Committee To Study Governmental Operations With Respect to Intelligence Activities. It is my understanding that Mr. CHURCH has been selected to be the chairman of that committee and that Mr. TOWER has been selected to be the vice chairman of that committee. I make that statement for the record.

ORDER FOR RECOGNITION OF MR. BEALL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are reconciled on Monday next under the standing order, Mr. BEALL be recognized for not to exceed 15 minutes; and that there then be a period for the transaction of routine morning business of not to exceed 45 minutes, the statements therein to be limited to 5 minutes each.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will next convene on Monday at 12 noon. After the two leaders, or their designees have been recognized, under the standing order, Mr. BEALL will be recognized for 15 minutes, after which there will be a period for the transaction of routine business for not to exceed 25 minutes with statements therein limited to 5 minutes each.

As to votes on Monday, there is always the possibility, of course. I can say nothing definite beyond this point.

ADJOURNMENT UNTIL MONDAY, FEBRUARY 3, 1975

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 noon on Monday next.

The motion was agreed to; and at 1:12 p.m., the Senate adjourned until Monday, February 3, 1975, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES—*Thursday, January 30, 1975*

The House met at 12 o'clock noon.

Rev. Palmer Joe Whitt, minister of the First Baptist Church, Aliceville, Ala., offered the following prayer:

Almighty God, Maker and Sustainer of all that is, who hast created us Thy children and dost set us straight when our ways have gone crooked, we offer Thee our gratitude and praise. We bless Thee for the privilege of being a part of this great Nation, and pray that Thou wilt keep us alert in spirit and loyal to the principles upon which she was founded. We pray for those that guide our Nation with their momentous decisions. Preserve them from faithless impatience, from pride, sloth, and cheapness, and from doing any shoddy or unworthy work. Grant them the diligence to master the facts, candor to face the issues of the day, insight to penetrate the accompanying mysteries, and the courage to welcome new truth yet to be made known. For we pray through Christ our Lord. 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 PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow one of its clerks, announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 281. An act to amend the Regional Rail Reorganization Act of 1973 to increase the financial assistance available under section 213 and section 215, and for other purposes; and

S. Con. Res. 6. Concurrent resolution to express pride in the strength and achievements of the Boy Scouts of America as this important youth movement marks its 65th anniversary.

The message also announced that the following-named Members were elected members of the following joint committees of Congress:

Joint Committee on Printing: Mr. CANNON of Nevada, Mr. ALLEN of Alabama, and Mr. SCOTT of Pennsylvania.

Joint Committee of Congress on the Library: Mr. CANNON of Nevada, Mr. PELL of Rhode Island, Mr. WILLIAMS of New Jersey, Mr. HATFIELD of Oregon, and Mr. GRIFFIN of Michigan.

The message also announced that the Vice President, pursuant to Public Law 89–81, appointed Mr. LAXALT as a member, on the part of the Senate, of the Joint Commission on the Coinage.

The message also announced that the Vice President, pursuant to Public Law 79–304, appointed Mr. FANNIN to the Joint Economic Committee in lieu of Mr. SCHWEIKER, resigned.

The message also announced that the Vice President, pursuant to Public Law 91–510, appointed Mr. DOMENICI as a member, on the part of the Senate, of the Joint Committee on Congressional Operations.

REV. PALMER JOE WHITT

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

Mr BEVILL. Mr. Speaker, I was honored today to have Rev. Joe Whitt from Aliceville, Ala., in my congressional district, give the opening prayer on the floor of the U.S. House of Representatives.

Reverend Whitt is pastor of the First Baptist Church of Aliceville. He received his A.B. degree from Samford University and master of divinity from Southern Baptist Theological Seminary.

He has been a member of the executive board of the Alabama Baptist State Convention for the last 6 years. Reverend Whitt now serves as president of the Pickens County Ministerial Association. He was elected to the board of trustees of Samford University in 1973.

Reverend Whitt is past president of the Aliceville Rotary Club and has been active in the Bloodmobile program, American Red Cross and the Aliceville United Fund.

An energetic worker for his city, county, and State, Reverend Whitt is currently active in various civic activities.

Reverend Whitt has made significant contributions to our society. He is an outstanding religious leader and I am happy to have the privilege of welcoming him to Washington and pleased that he was able to give the opening prayer today.

HEARING POSTPONED

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

Mr. EDWARDS of California. Mr. Speaker, hearings concerning allegations that the FBI has exceeded its legal authority in its domestic intelligence program were scheduled to continue today by the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary. Mr. Clarence M. Kelley, Director of the FBI, and Mr. Laurence Silberman, Deputy Attorney General were to be the witnesses. I am addressing the House this afternoon to advise that this hearing has been postponed until February 20. At that time we will hear the testimony of Mr. Edward H. Levi, who is expected to be confirmed as the new Attorney General and FBI Director Kelley. Today's hearing was postponed because Mr. Silberman is leaving the Department of Justice, and we thought it appropriate to have the benefit of the new Attorney General's views.

The Subcommittee on Civil and Consti-

tutional Rights of the House Judiciary Committee has oversight jurisdiction over the Federal Bureau of Investigation. We have been engaged for several years in a study of criminal record collection and dissemination by the FBI. In the next few months we plan to write and present to the full Judiciary Committee a bill that will, I believe, be acceptable to both the Department of Justice and to Americans concerned with our constitutionally guaranteed rights of privacy, due process, and civil liberties.

A few months ago activities of the FBI came to light which caused great concern to the public and to the subcommittee and which may require expansion of the criminal record bill. These allegations concern the FBI's domestic intelligence work—not in the areas of espionage, treason, or sabotage, specifically authorized by Federal law—but FBI programs in which private citizens and private organizations engaged in legal political activities, have been placed under surveillance, made the subjects of dossiers, and indeed have been illegally disrupted and harassed by the FBI.

The COINTEL programs, authorized by the late Director in 1956 and canceled by him on April 28, 1971, consisted of 2,370 incidents of overt action to disrupt and damage persons and organizations viewed by the Bureau as dangerous to our national security. We held a public hearing on COINTELPRO on November 20, 1974, with Mr. Silberman, Mr. Petersen, and Director Kelley as our witnesses. Further hearings on COINTELPRO are planned.

About 2 weeks ago new allegations appeared in the press, charging the FBI with collecting and maintaining political and personal data on Members of Congress and other political figures. The hearing on February 20 will concern these new allegations.

Whether or not files are maintained on Members of Congress is only part of the issue. Except that we represent more than 200 million people and have large public responsibilities, we are entitled to no more respect or privacy than any other Americans.

The issue then is the entire practice of FBI intelligence gathering, including surveillance of private persons or organizations, recordkeeping of their speech and activities, and the dissemination of such information. At issue also is the entire subject of FBI counterintelligence activity. When are COINTELPRO activities justified, or are they ever justified? These questions must be probed to see if distinctions can be made between appropriate counterintelligence activity and that which is inappropriate, illegal, and unconstitutional.

The Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee intends to perform its oversight of the FBI thoroughly, carefully, and competently. On our success may rest the success of all legislative oversight. It is now time for the FBI and other agencies of our Government to be subject to what a constituent of mine recently referred to as a "civil rights and liberties impact statement." While this has not been done in the past, this subcommittee will see to it that it is done in the future.

This subcommittee's job will be to examine the testimony of witnesses and test legal authorities to determine whether or not these problems can be handled by Justice Department regulations or must be handled by new legislation. Any legislation, of course, must comply with the provisions of the Constitution. No law that exceeds the bounds of the Constitution can be valid. Our concern for national security cannot include the licensing of Government conduct that infringes upon the rights protected by that basic document, the cornerstone of our open society.

As my colleagues well know, insofar as the Bill of Rights is concerned, the chairman of this subcommittee is a strict constructionist. It seems to me clear that our founders meant exactly what they said when they wrote the first 10 amendments. They meant that speech and association shall be free, in good times and also in times of great domestic unrest. In fact, the Bill of Rights was written at the most perilous time in our history, when our country was surrounded by militaristic European nations. Yet the first Congress had no hesitation in enacting the Bill of Rights.

The chairman's libertarian view will not prevent the presentation of opinions by all others, including those who feel strongly that there is a real necessity for a domestic intelligence program by the FBI.

We will ask that the Justice Department and the FBI be objective in reviewing its domestic intelligence program. Is all of this file keeping and surveillance of private persons and organizations worth the giant effort, the many millions of taxpayers' dollars, the inevitable violations of constitutional rights, the chilling effect on free speech and association? Was Federal District Court Judge Griesa correct when, referring to the FBI's surveillance of the Young Socialist Alliance, a legal political organization, he stated:

> The government has come forward with nothing. You've been looking at this group for 35 years and you haven't produced one single solitary crime or incitement to violence in the U.S. by anyone in the organization.—(U.S. District Court, Southern District of N.Y. 12–13–74)

I believe it appropriate at this time to share with my colleagues the steps presently being taken by the subcommittee in its oversight activities.

At our request, the GAO is presently reviewing the FBI's investigation of domestic intelligence activities, as well as its maintenance, use, and disssemination of related information. The overall objectives of that review are to determine:

First. The nature, extent, and adequacy of the FBI's legal authority for domestic intelligence activities;

Second. The policies, procedures, and criteria used by the FBI to initiate and conduct intelligence investigations of domestic groups and individuals and to handle information gathered in such investigations;

Third. The way in which the FBI implements its policies and procedures and the methods it uses in carrying out its domestic intelligence activities;

Fourth. The way and extent to which the FBI applies its resources to the domestic intelligence area; and

Fifth. The relationship between the FBI's domestic intelligence operations and those of State, local, and other Federal agencies in the intelligence community.

We will review and hold public hearings on this GAO report when it is completed.

In addition, we have asked the GAO to assist our staff in conducting a general survey of all FBI activities to obtain a broad working knowledge of the Bureau's operations and to identify specific potential problem areas for review. This survey will serve as a basis for planning our oversight so that we can be continually provided with information on the efficiency, economy, and effectiveness of the FBI's operations.

Some of the areas to be covered in this general survey and in subsequent separate reviews by the GAO and our staff are:

First. The FBI's statistical reporting system and procedures, particularly with respect to the accuracy of crime statistics, Bureau accomplishments, and other information, and how such information is collected, used, and disseminated;

Second. Criminal investigation activities, particularly with respect to the types of cases the Bureau investigates and refers to U.S. attorneys for prosecution;

Third. The Bureau's organized crime activities;

Fourth. Identification services and recordkeeping functions; and

Fifth. Budget preparation and control process, including the way priorities are established and resources allocated.

Our work will be accomplished in a variety of ways. We will rely on the excellent services of our GAO investigators to augment our own staff. Their reports will be aired publicly when completed.

Of necessity, some of our preliminary inquiries will be made at the staff level. Some hearings may be in executive session but only when absolutely required by the circumstances. As much of our work as possible will be done in public and by way of hearings on a continuing basis.

If "past is prolog," then we need to know how things were, and are, before we can fairly determine how they ought to be. We intend, at some point in our quest, to call all 10 living former Attorneys General to discuss with them their working relationships with the Director of the FBI and the FBI itself. We are currently making plans to revisit the identification divisions and the National Crime Information Center. We also intend to visit FBI headquarters and view for ourselves the operations and uses of various records.

I do not underestimate the difficulty of our task. I appreciate the confidence the chairman of the House Committee on the Judiciary, the Honorable PETER RODINO, has shown in giving us this jurisdiction. The importance of our undertaking has been emphasized by him many times, and he has promised his full cooperation in our investigation. The co-

operative attitudes of both the Department of Justice and the FBI have and will continue to contribute to our success.

It is fitting that as we approach the Bicentennial celebration of the founding of our country we once again measure our institutions and agencies of government by the yardstick of our Constitution and the Bill of Rights. As my colleagues know, that is the particular concern of the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary in its oversight of the FBI and one which we will fulfill.

LOCAL POLICE SPYING

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

Mr. MITCHELL of Maryland. Mr. Speaker, here are some of the headlines December 11, 1974, "Police Infiltrate Lawyers Office"; December 13, 1974, "Representative Mitchell Says Police Infiltrated His Office, Too"; December 23, 1974, "Police Spies Compiled Files on Black Officials, Clergy"; January 20, 1975, "Police I.S.D. Targets Included Civic, Religious Groups."

You are probably asking what does all this mean. It means that the Inspectonal Services Division of the Baltimore City Police Department carried out domestic espionage against more than 125 civic and religious groups. Through infiltration of groups and an elaborate apparatus, hundreds of dossiers were compiled on citizens and groups not engaged in any criminal activity. It means that paid and unpaid police informers were used to supply the information that went into the dossiers. It means that black elected officials and black leaders were singled out as special targets of gestapo tactics. It means that copies of local police spy reports were sent to, among others, Army Intelligence and the FBI.

The grand jury of the city of Baltimore is now investigating these matters as is also the Constitutional and Public Law Committee of the Maryland General Assembly.

I have formally requested the U.S. Senate Select Committee To Study Governmental Intelligence Gathering Activities to investigate the Baltimore City Police Department. My formal request pointed out that the police commissioner of Baltimore has admitted that surveillance reports on Baltimore political figures are often forwarded to the Federal Bureau of Investigation.

In addition, I have requested the Department of Justice to act under 18 U.S.C. 241 and 242 against the Baltimore City Police Department. Section 241 makes illegal any conspiracy to "injure, oppress, threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to them by the Constitution of the United States or because of his having so exercised the same." Section 242 prohibits essentially the same acts, if they are undertaken "under color of law," which clearly encompasses any such activity by a police department.

We who serve the public have a duty and a responsibility to protect the civil rights and civil liberties of those we represent. In addition, we have a duty and responsibility to educate the public as to the dreadful danger to our form of government which occurs when civil liberties are eroded or trammeled by any agency of Government. The actions I have taken against the Baltimore City Police Department serve to meet both sets of duties and responsibilities.

TO INCREASE ALLOWABLE EARNINGS UNDER RETIREMENT TEST PROVISIONS OF SOCIAL SECURITY ACT

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

Mr. HANLEY. Mr. Speaker, I am pleased to announce that I am introducing a measure which would increase the amount of allowable earnings under the retirement test provisions of the Social Security Act from the present $2,520 to $8,000.

During the 93d Congress, I sponsored a similar measure. At that time the income limitation was $2,400, and I strongly felt that this figure was unrealistic in light of the increased cost of living. In 1973, inflation mounted to more than 10 percent. The inflation rate in 1974, was 13.7 percent, and there is no relief in sight for 1975. While an automatic cost-of-living adjustment has raised the retirement test to $2,520 for 1975, this represents an increase of only 5 percent which is hardly in line with the rate of inflation.

While inflation has adversely affected the economy as a whole, it has taken its highest toll among our Nation's elderly. The cost of food, heating fuel, shelter, utilities, medical care, and other goods and services which are essential for senior citizens has risen at an even higher pace than the rate of overall inflation. The number of elderly individuals with incomes below the poverty line has increased dramatically. But for the $2,520 income limitation, many senior citizens would gladly supplement their meager retirement incomes through part-time employment.

The inequity of the retirement test is even more evident when one considers that only earned income is counted. In other words, a retired individual could conceivably have an income of $1 million from investments, savings, royalties, and so forth, and still receive maximum social security benefits. However, a retired person who is not fortunate enough to have an "unearned income," substantial enough to supplement his social security, cannot earn over $2,520 without having his social security benefits reduced.

Furthermore, the enactment of this legislation would have a healthy effect upon the economy. While it will not solve all our economic ills, it would provide a large segment of the population, who need it the most, with a more flexible income. In turn, senior citizens would be able to purchase goods and services presently unavailable to them, which would stimulate the economy.

It is evident that an updating of the antiquated retirement test is long overdue. I call upon the House Ways and Means Committee to take up prompt consideration of the legislation which I have introduced.

TO ELEVATE NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH IN HEW

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

Mr. OBEY. Mr. Speaker, today I am introducing a bill to elevate the National Institute for Occupational Safety and Health within the bureaucratic structure of the Department of Health, Education, and Welfare. Currently, this important agency which is responsible for protecting workers from thousands of dangerous chemicals such as vinyl choride and inorganic arsenic is buried within the Center for Disease Control at the same level in the government organization structure as the Bureau for Tropical Diseases and Bureau for Small Pox Eradication. In simple terms, it has been so low on the bureaucratic totem pole that routine administrative problems have often become greater roadblocks to productive research than the problem of adequate funding.

Within the last 12 months Americans have been told that the substance used to make a major portion of the plastic in their homes, vinyl chloride, may be causing cancer of the liver, lung, brain, and spleen, deterioration of the bones of the fingers, enlargement of the liver and spleen, birth defects, and cirrhosis of the liver. They have been told that inorganic arsenic which is used in the manufacture of the dyes and pesticides used both on the farm and in the back yard is linked to a very high rate of lung cancer among workers who are exposed to it, and no one yet knows its affect on the general public. They have been told that the gases used as anesthetics in hospitals appear to be causing still births among operating personnel, that the chlorine used in some municipal water systems is combining with certain pollutants to form cancer-causing chemicals in our drinking water and only last week we learned that chloroprene, another chemical used in the manufacture of certain types of plastic, is now believed to be a possible cause of skin and liver cancer among workers involved in its manufacture.

And what has been the reaction of the Federal Government to these terrifying revelations? NIOSH, the one agency with primary responsibility to explore these chemical hazards in the workplace where their consequences usually first become apparent, has shrunk rather than expanded to respond to this problem. Today, NIOSH has only 582 employees, 12 percent below its level of January 1973, and about half the size that the former Secretary of HEW, Elliot Richardson, envisioned as appropriate for the agency.

Despite the fact that the Congress has appropriated sufficient funds to increase the size of the agency, bureaucratic restrictions have resulted in 164 of the

positions provided by the Congress remaining vacant. The former Director of NIOSH, Dr. Marcus Key, described the situation like this over a year ago in the New York Times:

NIOSH is not expanding, it is shrinking. It is getting the proverbial meat ax. Our present laboratory space isn't even adequate for any kind of research. It is substandard. We have been frozen on hirings for most of our existence, and we are losing key staff right and left because we don't have the grade point to promote them. I don't think NIOSH is a viable organization at this time.

Since that statement was made the situation at NIOSH has not changed significantly. Despite efforts by the Congress to provide the agency with the necessary resources, there has been no increase in the agency staff and no progress on providing the agency with improved research facilities.

The legislation I am introducing will put NIOSH more directly in charge of its own destiny. It will result in our ability to increase the number of dangerous chemicals we are able to examine each year and that will mean a healthier nation.

The text of the bill follows:

H.R. 2460

A bill to amend the Occupational Safety and Health Act of 1970 to make the Director of the National Institute for Occupational Safety and Health directly responsible to the Assistant Secretary for Health of the Department of Health, Education, and Welfare

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 22(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671(b)) is amended—

(1) by inserting "(1)" immediately after "(b)"; and

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

"(2) The Director shall be responsible to the Assistant Secretary for Health of the Department of Health, Education, and Welfare and shall report to the Secretary of Health, Education, and Welfare through such Assistant Secretary and not to or through any other officer of the Department of Health, Education, and Welfare. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him.".

CALL FOR HEARINGS ON NATURAL GAS SHORTAGE

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

Mr. WYLIE. Mr. Speaker, on January 23, my distinguished Colleague, the Honorable THOMAS L. ASHLEY, requested Chairman STAGGERS to schedule hearings in the Commerce and Health Committee at the earliest possible opportunity to investigate a severe curtailment of natural gas supplies in Ohio.

I take this opportunity to join with Congressman ASHLEY and urge the chairman to begin hearings immediately. At this time, Mr. Speaker, we as a nation are experiencing increasing unemployment and loss in industrial output. In Ohio, we are suffering due to natural gas cutbacks while some States go along apparently unaffected. Ohio State University, with approximately 50,000 students, faces a potential shutdown if we have a prolonged cold spell in central Ohio.

These oversight hearings should be convened to ascertain if there truly exists a natural gas shortage. The committee ought to pursue what if any legislative action might be needed to eliminate the recurrences of such shortages not only in Ohio but in the other States of our Union. May I suggest that representatives of the natural gas producers and distributors, State public utilities commissioners, consumer officials, natural gas users as well as the Federal Power Commission, and other Government agencies be called to testify; thus, enabling us to get all the facts so that Congress can face its responsibility in this critical area.

HARDSHIP CAUSED BY RESCINDING HILL-BURTON HOSPITAL FUNDING

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

Mr. BAUCUS. Mr. Speaker, in response to many urgings by my constituents, I have sent a letter to President Ford concerning the hardships caused by his request to rescind the Hill-Burton hospital funding program. The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 28, 1975.

The PRESIDENT of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am duty-bound to respectfully draw your attention to the great hardship suffered in Montana as a result of your request for the rescission of Hill-Burton hospital funds.

Montana is a geographically vast state with a population of only 4.8 persons per square mile. Our need for rural medical services is severe. This need is compounded by great distances between population centers and weather conditions that often are extreme.

Your request for the Hill-Burton rescission has dealt a hard blow to communities such as Choteau, Montana. Last November, Choteau voters approved a $1.3 million bond issue for the construction of a new hospital. Since the old hospital is unfit for renovation to state and federal Medicare/Medicaid standards, the community was compelled to build another or face the likelihood of having no hospital at all. The proposed Teton Memorial Hospital was to be built with the aid of $508,000 supplied through Hill-Burton funding, aid that was approved and certified by areawide and state Comprehensive Health Planning Agencies. The community has purchased a site, cleared it, retained an architect, and completed a topographical survey. Though the time and money already expected are considerable, the community now faces the prospect of having labored for nothing. Your request for the rescission of Hill-Burton funds has frozen the critical $508,000 needed for completion of the project.

A similar situation, Mr. President, exists in Lewistown, Montana, a community that pledged more than $1.8 million toward the construction of a new hospital. The old facility is likewise in danger of being closed because of nonconformance to state and federal standards. The people of Lewistown and the surrounding area proceeded through the appropriate channels and were awarded a $633,450 commitment of Hill-Burton funds toward the completion of their new hospital. They, too, have hired an engineering firm and have expended much time and money in preparation and planning. At present, the Hill-Burton money is frozen and their efforts appear to have been in vain.

Not long ago, the Montana State Board of Health ordered the Granite County Memorial Hospital at Philipsburg to upgrade its facilities under risk of closure. In response not only to the order, but to the health needs of the area, the voters of Granite County approved a $457,000 general obligation bond issue for the construction of new wings for extended and in-patient care, and the revamping of the existing building. The money committed by the voters is sufficient for covering 60% of the total costs. The remaining 40% was to come from the state's 1975 allotment of Hill-Burton funds. Like the people of the Lewistown and Choteau areas, the citizens of Granite County are now facing the possibility of losing their existing facilities altogether in spite of their responsible efforts for improvement.

The people of Montana's rural communities have long recognized the need to improve their inadequate and overworked medical facilities. The Hill-Burton program offered the means of expediting a solution to a problem that cannot otherwise be solved without long and painful delay. The people responded in good faith. They demonstrated their willingness to contribute time and money on behalf of positive community action. The freezing of Hill-Burton funds has adversely affected medical services improvements in Glendive, Harlowton, Glasgow, Circle and Missoula, in addition to those already mentioned.

I would point out, Mr. President, that Montana, like the rest of the nation, is presently experiencing grave economic difficulty. Our state's wood products industry has suffered mightily as a result of a depressed building industry nationwide. Unemployment is high. A crippled beef market is depriving our state of much needed capital and economic stimulus. The projects employing Hill-Burton funds have the potential of putting a substantial number of people to work as well as injecting into local economies capital needed to aid recovery.

I know, Mr. President, that you did not intend to work this hardship on the people of Montana and those in other states with largely rural populations. I need not emphasize the need for additional services in those heavily populated urban areas where facilities are too overworked to provide even basic health care requirements. I encourage you, in view of the urgent need for Hill-Burton money, to direct the Secretary of Health, Education and Welfare to obligate the money as appropriated immediately rather than waiting for the end of the forty day period pursuant to the Impoundment Control Act of 1974.

I believe this action would dispel the profound sense of disillusionment and distrust of government felt by these who have labored long and hard in small communities for much needed improvements in medical facilities only to find that the federal government has failed to honor its commitment. I would further emphasize that the projects I have cited do not represent a mere attempt to increase the number of America's hospital beds. These proposed facilities represent an effort to address a critical problem endured by rural communities across the nation.

Thank you, Mr. President, for your time and consideration in this matter.

With best personal regards, I am,

Sincerely,

MAX BAUCUS,
Member of Congress.

AN ALTERNATIVE TO PRESIDENT FORD'S ENERGY PACKAGE

(Mr. VANIK asked and was given permission to address the House for 1 min-

ute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, I am proposing legislation for consideration as an alternative to President Ford's energy package. It is based on the following legislative proposals:

First. A rationing plan to provide a basic supply of gasoline to every owner of a passenger motor vehicle with appropriate allocations to industry, business, and agriculture. This program will provide everyone with a basic supply of gasoline at current market prices;

Second. A gasoline conservation tax of 20 to 40 cents a gallon to be paid on all gasoline purchased in excess of the basic ration. The tax level would be determined by the President after appropriate hearing and notice. This flexibility will allow the President to change the tax based on the response to conservation and the progress of oil import reductions;

Third. A proposal to limit the President's power to decontrol the price of "old" oil, which currently accounts for 60 percent of our domestic production. The President would only be allowed to increase prices on this oil at a rate not exceeding $1 per barrel per year. This will permit a phasein of decontrol and cushion the inflationary impact as we adjust to new energy sources coming into production.

These proposals would reduce oil imports and stimulate both additional domestic production and needed conservation while minimizing inflationary price increases. There would be no need for the $3 per barrel tariff on imported crude oil, the $2 per barrel excise tax on domestic crude oil, and the $0.37 per thousand cubic feet excise tax on natural gas used in homes and businesses.

Mr. Speaker, I expect to elaborate on this proposal in a special order later this afternoon.

ADDITIONAL RESCISSIONS AND DEFERRALS FOR FISCAL YEAR 1975—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-39)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

I herewith report on additional rescissions and deferrals for fiscal year 1975, as required by the Congressional Budget and Impoundment Control Act of 1974.

Thirty-five new rescissions and 14 new deferrals are proposed in the amounts of $1,097 million and $769 million, respectively. In addition, five revised rescission reports reduce by $178 million the amounts proposed for rescission in earlier reports, and 12 revised deferral reports increase the amounts reported as deferred in earlier reports by $111 million.

In the main, the rescissions and deferrals transmitted herein seek to reduce the increased Federal spending that would otherwise result from four recently-enacted 1975 appropriation bills—Labor-Health, Education, and Welfare; Agriculture-Environmental and Consumer Protection; the First Supplemental; and the Urgent Supplemental. The 93rd Congress, in the conference report on the Labor-HEW bill, indicated its willingness ". . . to give full consideration to such rescissions and deferrals . . ." as might be required to keep 1975 spending within the total estimate for the bill.

If the Congress does not agree to the rescissions and deferrals accompanying this message, the 1975 deficit will grow by $357 million and the 1976 deficit by $675 million. I ask the 94th Congress to give full consideration to the question of whether increased Federal spending—with its associated inflationary effects and implied longer-term commitments—is warranted for these programs at this time.

GERALD R. FORD.

THE WHITE HOUSE, *January 30, 1975.*

RESIGNATION AS MEMBER OF INTERSTATE AND FOREIGN COMMERCE COMMITTEE

The SPEAKER laid before the House the following resignation as a member of the Interstate and Foreign Commerce Committee:

WASHINGTON, D.C.,
January 27, 1975.

Hon. CARL ALBERT,
Speaker, House of Representatives
Washington, D.C.

DEAR MR. SPEAKER: On January 23, 1975, I announced my intention to become a member of the Republican Party. On January 24, 1975, I officially registered as a Republican at the Oklahoma County Election Board in Oklahoma City, Oklahoma.

Please accept this letter as my resignation from the Interstate and Foreign Commerce Committee.

With every good wish, I remain,
Sincerely,

JOHN JARMAN,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO U.S. MERCHANT MARINE ACADEMY

The SPEAKER. Pursuant to the provisions of 46 United States Code 1126c, the Chair appoints as members of the Board of Visitors to the U.S. Merchant Marine Academy the following Members on the part of the House: Mr. WOLFF, of New York; and Mr. WYDLER, of New York.

APPOINTMENT AS MEMBERS OF BOARD OF DIRECTORS OF GALLAUDET COLLEGE

The SPEAKER. Pursuant to the provisions of section 5, Public Law 420, 83d Congress, as amended, the Chair appoints as members of the Board of Directors of Gallaudet College the following Members on the part of the House: Mr. CORNELL, of Wisconsin; and Mr. QUIE, of Minnesota.

THE LATE FRANCIS EUGENE WORLEY

The SPEAKER pro tempore (Mr. MCFALL). Under a previous order of the House, the gentleman from Texas (Mr. YOUNG) is recognized for 60 minutes.

Mr. YOUNG of Texas. Mr. Speaker, it is my honor to yield to the distinguished Speaker of the House of Representatives, the Honorable gentleman from Oklahoma (Mr. ALBERT).

Mr. ALBERT. Mr. Speaker, I take the microphone to join my colleagues, particularly those from Texas and all colleagues who served here with Eugene Worley during his period of service in the House, in honoring the gentleman from Texas. I knew Gene Worley better than I knew most Members, because I sat close to him and worked with him for several years on the Committee on Agriculture.

Gene Worley was an outstanding worker. He was an outstanding Member of the House. He was a very fine and decent person.

He was appointed to the U.S. Court of Customs and Patent Appeals, and he made an outstanding judge. All the judges I have known who served with him have said that from the very beginning he was a very conscientious, able and constructive member of that very important court. The court has lost a great man and the country lost an outstanding American. We who served with him have lost a friend and a colleague of many years, who will always be remembered by all of us as one of the fine men who served in the House of Representatives.

I thank the gentleman from Texas (Mr. YOUNG) for yielding.

Mr. YOUNG of Texas. Mr. Speaker, I yield the balance of my time to the dean of the House of Representatives, the honorable gentleman from Texas (Mr. PATMAN).

Mr. PATMAN. Mr. Speaker, the Honorable Francis Eugene Worley of Texas passed away in December after a long and outstanding career of dedicated service to his State and country. Gene began his career in the Texas Legislature and, in 1940, was elected to the U.S. House of Representatives from Texas' 18th Congressional District. Fulfilling a campaign pledge, Gene left the Congress in December of 1941 to join the military and served with distinction as lieutenant commander in the Naval Reserve. Upon returning to civilian life, Gene Worley was reelected to the Congress where he served effectively for almost a decade.

After compiling a brilliant record as a legislator at the State and national level, Gene was appointed Chief Judge of the U.S. Court of Customs and Patent Appeals in 1959. His record as a jurist was impressive and his scholarly and able leadership enhanced the reputation and standing of the court. A senior judge of the court since 1972, Gene continued to hear cases in spite of illness that would have forced lesser men to withdraw completely from the world.

Mr. Speaker, it was a privilege to know and serve with this courageous, talented, upright, and patriotic man and I deeply mourn his passing. We need more such men of dedication to the pub-

lic interest and of unquestionable honor and integrity in government today. Mrs. Patman joins me in extending profound sympathy to his wonderful family. They can take lasting pride in Gene's splendid service to the people and his lifelong reputation for unswerving adherence to the highest standards of professional responsibility. I will always be proud that Gene Worley was my friend and only hope that future occupants of this House and of the Customs Court can come close to matching his ability and devotion to the public interest.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to my colleague from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, throughout the service of the distinguished gentleman from Texas, Mr. Eugene Worley, I was privileged to represent the adjoining district. On last December 19, I announced to the House the passing of Mr. Worley, and I made reference to his outstanding record of achievement as a Member of Congress and as a member of the U.S. Court of Customs and Patent Appeals.

Judge Worley and his family were close friends of the Mahons through all the years. We continue to mourn his loss and continue our sympathetic concern for his lovely wife Ann and the rest of the family.

Judge Worley was one of the ablest men with whom I have ever served, and I held him in the highest of esteem. His contribution to the betterment of our great Nation was significant and he left a rich legacy of accomplishment to his fellow man. It is my great privilege to join in honoring the memory of this beloved American.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to my distinguished colleague from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished dean of the House and the dean of the Texas delegation, and the man I would always consider to be the true chairman of the Committee on Banking and Currency.

Mr. Speaker, I rise on this occasion to join my voice to those expressing the regrets at the passing of a judge and former Congressman from Texas, Eugene Worley. Mr. Worley served in the House long before I came to it, and he was sitting on the bench when I came to the Congress. His name had been widely known throughout the State.

The fact that he represented a geographical portion of the State did not deter his name from transcending those district lines. He reminds me of something that former President Lyndon Johnson used to say to account for the tenure and the position of leadership that Texans proceeding to the Congress gave the Nation.

He used to say:

Texans are asked "Why do you have so many Texans of long standing and seniority in positions of preeminence?"

The dean, who has served longer than anybody else in the House from Texas, will recall those words.

Mr. Johnson used to say that we in Texas pick them young, we pick them honest, we send them there, and we keep them there.

This was true of Mr. Worley, as has been true in the case of so many other Texans, including our distinguished dean, who have served preeminently on a national level.

Judge Worley, if he were living today, would, I think, find some humor in the recent activities reflected in the utterances of a few who have said that something would have to be done to get some of the Texans off of the positions of leaderships and chairmanships in the House. Some of them may have temporarily succeeded. But Judge Gene Worley symbolized the fact that Texas will keep sending them here young, picking them honest, and keeping them here.

I include in the RECORD at this point some remarks made by a colleague from the bench at the time Judge Worley was completing an anniversary:

Mr. VANCE. May it please the Court. I ask the Court's indulgence to make a few remarks today on an anniversary of significance to members of the Court and to the members of the Bar who have the privilege of appearing before it. Twenty-two years ago today, Chief Judge Worley took the oath of office as a Judge of this Court. Eight years and one month later, to the day, Judge Worley became Chief Judge of this Court. In January of this year, the Chief Judge's intention to retire upon the qualification of his successor was accepted by the President. This is thus, apparently, the last week in which Customs Appeals will be heard by the Worley Court, and it seemed appropriate that we of the Customs Bar, public and private, not let this occasion pass without spreading on the record our appreciation for the Chief Judge's years on the Bench and the contributions he has made in the field of Customs law with his many opinions in the area.

During my ten years as Chief of the Customs Section, I have had the pleasure of appearing only before the Worley Court. It has been a Court, in its past and present members, of distinguished and learned jurists and wise and understanding men who have had to consider a myraid of perplexing cases in an ever changing world. The Worley Court has seen significant changes in the administration and judicial consideration of our tariff laws (and I know, peripherally, that the Court has encountered new concepts and problems in its patent and trademark jurisdiction, as well). A few years ago a long cherished dream was realized with the move to this new courthouse. While those of us who argued in the old courtroom in the Internal Revenue Building certainly have fond memories of those premises, we appreciate these more commodious accommodations. I'm sure that these new quarters are a further testimony to the initiative, leadership, and perseverance of the Chief Judge and his colleagues on the Court in both enhancing and complementing the prestige of this Court.

This is not the time for a compilation or discussion of the landmark decisions in the field of Customs law on which either the Chief Judge or the Worley Court has left its stamp. Rather, it is a day that while filled with gratitude for the many years of the Chief's public service on this Court and in the Congress, we note with regret that his career has been cut far too short. We admire the battle which you have waged against illness, Your Honor. In the future, we shall miss your pithy remarks and your unfailing good humor and gracious consideration even as you urged us to get to the nub of the case, or "I think we understand your case, counsel."

We congratulate the Court on this anniversary and we express to you, Judge Worley and to Mrs. Worley our wishes for many happy, peaceful, and fruitful years in which to enjoy your well-earned retirement. We are comforted in your early retirement only by the thought that release from the strain of your office may enable you to regain your strength and health.

I am confident that the members of the Customs Bar, both private and public, join me in wishing long life and good health to the Chief Judge and to the members of this Court.

Chief Judge WORLEY. I want to compliment you on the very able fashion in which you have handled your Department and yourself the last ten years.

Mr. VANCE. Thank you your Honor.

Chief Judge WORLEY. I thank you for the nice things you have said. I just wish that I fully deserved them.

Mr. VANCE. It was a sort of extra pleasure to know that you were sitting this week.

Chief Judge WORLEY. Thank you—with that I'll try to be more lenient in the future with you.

[Mr. Joseph Schwartz, of the Association of the Customs Bar, to the lectern]

Chief Judge WORLEY. I believe it is fair to say that Mr. Schwartz is the Dean of the customs lawyers that have appeared before us. I believe you represented your clients ably and well the last 41 years. Is that correct?

Mr. SCHWARTZ. That is correct, in this court, your Honor. However I hope your Honor does not tell my senior partner, Mr. Colburn, what you have just said to me. I think he's the real Dean of the Customs Bar.

Chief Judge WORLEY. Well you are the First Assistant Dean.

Mr. SCHWARTZ. May it please the court. I appear here simply to note for the record that the association of the Customs Bar wholeheartedly joins in the sentiments expressed by Mr. Vance, and to add a personal note. I think the record should show that Chief Judge Worley has always been in every way courteous, considerate, and patient even though at times it was very obvious that sitting there and listening to some of the arguments was most trying. I do not mean that the other members of the Court are excluded by the rule of "expressio unius est exclusio alterius." The Court has always been courteous and patient with the members of the Bar appearing before it. I wish for you, Chief Judge Worley, many years of happiness and tranquillity in your retirement. Thank you.

Mr. PATMAN. Mr. Speaker, I yield to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. I thank the gentleman for yielding.

I want to join my colleagues today in paying tribute to the work and contributions of Judge Eugene Worley.

I knew Judge Worley as a judge of the Customs Court, who frequently came back to visit this House where he had such an illustrious career. Our affection for him was comparable only to his affection for this House.

This distinguished citizen left his firm imprint on the law as a legislator and as a judge. He was a man of dedication and compassion, a citizen we will indeed miss.

Mr. PATMAN. Mr. Speaker, I yield to the gentleman from Texas (Mr. YOUNG).

Mr. YOUNG of Texas. Mr. Speaker, I thank the gentleman for availing us the opportunity to address ourselves to this sad matter that is so near and dear to

the hearts of all who had the honor and pleasure of knowing the Honorable Gene Worley. Gene Worley was a great and distinguished jurist as well as a hard-working and effective Congressman—great accomplishments each in themselves—and he was as well a loyal friend and fine gentleman. He is mourned by his magnificent and lovely family, and we join them in their sadness as only those can who have lost a dear and valued friend.

Gene was the epitome of the public official who worked tirelessly, honorably and effectively in the public interest; who constantly demonstrated that "right" or "wrong" are the same in public or private service; and that, while virtue may not go far in the marketplace, its value is true and none can take it away. In the House or on the bench, Gene Worley never wavered from his principles, and this is why he was always comfortable with his many friends and they with him.

It was he who built the modern court facilities in which he presided as chief judge for so long, but more important he built the court that functioned within. A man of great stature personally and professionally, his accomplishments in the law, both legislative and judicial, cannot begin to be chronicled in the space and time alloted here. The CONGRESSIONAL RECORD and the proceedings of the Court of Customs and Patent Appeals reflect loudly, eloquently, and frequently the attributes of this great person and will attest to all that is being said here of him as long as it is the province of man to consult precedents for the right and reason of his official decision and conduct.

On the occasion of his retirement from active service from his beloved court, things were said and written by many great men who knew him best, and I place in the record of this proceeding some of those expressions that they might attach to our condolence and be a solace to his dear family and to those of us who mourn with them his passing.

SUPREME COURT OF THE UNITED STATES,
Washington, D.C., December 24, 1971.
Chambers of the CHIEF JUSTICE

Hon. EUGENE WORLEY,
Chief Judge, U.S. Court of Customs and Patent Appeals, Washington, D.C.

DEAR GENE: I acknowledge your letter of December 23 and the enclosure confirming what you had advised earlier by telephone.

Following your telephone message, I wrote to the President pursuant to the statute and a copy of my letter is enclosed for your files.

You have, as I stated to the President, carried on a valiant battle against heavy odds. No one can question your right, if not your duty, to yourself and family, to be relieved of the heavy burdens you have carried.

I sincerely trust that with rest and relief from the day to day duties, you will improve to the point where you can perform some judicial duties.

There are ways in which you can help, even apart from regular judicial duties, and when it will not impinge on your health I hope I can call on you to advise with the Congress from time to time on legislation affecting the judiciary.

Mrs. Burger joins in best wishes to you and Mrs. Worley for the New Year ahead.

Cordially,

(S) WARREN E. BURGER.

THE WHITE HOUSE,
Washington, D.C., January 17, 1972.

Hon. EUGENE WORLEY,
Chief Judge, U.S. Court of Customs and Patent Appeals, Washington, D.C.

DEAR JUDGE WORLEY: Your intention to retire from service as Chief Judge of the United States Court of Customs and Patent Appeals under Section 372(a) of Title 28, USC has come to my attention.

In acknowledging your notification of retirement, effective upon the appointment and qualification of your successor, I want to express my gratitude—and that of all our fellow citizens—for your long and distinguished service to government and to the nation. As a member of the Federal Judiciary for twenty-one years, you have contributed in an especially effective and significant way to the sound administration of Justice. Your outstanding career as a public servant has properly won you the admiration and respect of the members of the bar and your colleagues on the bench.

As you return to private life, you may be certain that my very best wishes for every happiness and improved health go with you.

Sincerely,

(S) RICHARD NIXON.

U.S. COURT OF CUSTOMS AND PATENT APPEALS,
Washington, D.C., April 5, 1972.

At a session of said court held at Washington, D.C., on this 5th day of May, 1972.

Present: Chief Judge Eugene Worley, Associate Judges Giles S. Rich, J. Lindsay Almond, Jr., Phillip B. Baldwin and Donald E. Lane.

The court met at 10 a.m. and was opened for business in due form.

Chief Judge EUGENE WORLEY. I understand from the Clerk I am to recognize Joseph Nakamura.

Mr. JOSEPH NAKAMURA, Deputy Solicitor of the Patent Office: Chief Judge Worley, Associate Judges of the Court of Customs and Patent Appeals:

Judge Worley, none of us can know with certainty what the future has in store. I am advised that today may mark the last occasion of your appearance here as Chief Judge of this Court. With that possibility in mind, I should like to take this opportunity, both personally, and on behalf of the Commissioner of Patents, the Solicitor, Mr. Cochran, and members of his staff, to convey a few parting words of tribute to your Honor. My remarks will, of course, be confined "to the record."

Your service on the court is a lengthy and distinguished one. At the outset, I know that your Honor's tenure on this court is measured by the span from volume 37 to volume 59 of this court's reports. Measured in years, it is over one-half of the forty some years of this court's appellate jurisdiction over Patent Office decisions.

In the decisions rendered by the court in the exercise of its appellate jurisdiction in patent matters, your Honor's opinions demonstrate, above all, your profound belief in a strong patent system. As your Honor has observed "Our patent system is a delicate balance of the interests of the inventors, vis-a-vis the public interest." And, as your Honor has most recently pointed out, the court does no favor to the applicant, or to the public, if it bestows on the applicant "a license to litigate of dubious validity." That sentiment reflects the Supreme Court's pronouncement that "to await litigation is—for all practical purposes—to debilitate the patent system."

Your Honor's opinions and conduct of hearings, moreover, have reflected a keen sense of humor. I am particularly reminded of one opinion, the humor of which must surely have been appreciated by everyone, with the possible exception of certain personnel in the Department of the Army. I believe your Honor recalls the circumstances of that case, it involved a design on a gasket.

Chief Judge WORLEY. I let my sense of humor run away with me.

Mr. NAKAMURA. One further point deserves mention. That is your Honor's patience, good humor, and outstanding courtesy in dealing with the Patent Office and its lawyers. For example, when the occasion merited it, your Honor graciously expressed, in a written opinion, your appreciation for the Patent Office's response to a remand from this court.

Finally, Mr. Cochran has asked me to say that he joins me in this statement, and to convey his regret that he could not be here today because of a prior commitment of some months' standing.

In conclusion, your Honor, and on behalf of the Commissioner of Patents, Mr. Cochran, and the members of his staff who have appeared here for the Patent Office, please accept our commendation to you for the contribution you have made to the patent system, and our best wishes for your future happiness and well being.

Chief Judge WORLEY. Thank you for your gracious and courteous remarks, Mr. Nakamura. I appreciate them, and I wish I felt that I deserve all that you have said. I want to tell you, Mr. Cochran, his predecessors in office—Ed Reynolds, Clarence Moore, Joe Schimmel—and all members of the Patent Office staff who argue here, that I have never found you anything but helpful, able, diligent and conscientious. One cannot ask for anything more. Your assistance to us in the performance of the duties Congress has assigned this court truly has been invaluable. At the same time, I would be remiss if I did not add that I am sorry if I had to cut short your time occasionally when I found duplication or repetition of argument but you notice I did not interrupt you on this occasion. Again, thank you for being here today.

I understand Mr. Browne wishes to be recognized. Mr. Browne, it is always a pleasure to have you here.

RETIREMENT OF CHIEF JUDGE EUGENE WORLEY
JUNE 26, 1972.

The Court records with regret the retirement on June 26, 1972, of Chief Judge Eugene Worley and desires to express its esteem for him and its gratitude for his twenty-one years of devoted service to the Court. The following correspondence and tributes have been spread upon the minutes of the Court.

SUPREME COURT OF THE UNITED STATES,
Washington, D.C., December 22, 1971.
CHAMBERS OF THE CHIEF JUSTICE

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

DEAR MR. PRESIDENT: The Honorable Eugene Worley, Chief Judge of the United States Court of Customs and Patent Appeals, has made known to me his desire to retire from regular active service on the basis that he is permanently disabled from performing the duties of his office.

Based on Chief Judge Worley's descriptions of his physical infirmities which have persisted over a long period of time, and on the basis of my own inquiries into the matter, I find that he is permanently disabled from performing the duties of his office, and hereby certify to that effect under and pursuant to the provisions of Section 372(a) of Title 28 of the United States Code. My conclusions underlying this communication are based on reports of his personal physician, which summarize the diagnoses and prognoses of examining and attending physicians * * *.

I should add a personal word from my own knowledge. I know that Chief Judge Worley has tried valiantly to overcome the handicaps of his misfortunes of health for at least three or four years. He has done this because of his devotion to his Court and his sense of duty. I am certain that at any time he wished to request a disability retirement during the past four years it would have been granted.

I am hopeful, as Judge Worley is, that with rest and further treatment and freedom from the heavy duties of his office, his health will be restored so that he can perform limited judicial services in the future.

Cordially,

(S) WARREN E. BURGER.

U.S. COURT OF CUSTOMS AND PATENT APPEALS,
Washington, D.C., December 23, 1971.

Chambers of EUGENE WORLEY, CHIEF JUSTICE

Hon. WARREN E. BURGER,
Chief Justice of the United States, Supreme Court Building, Washington, D.C.

MY DEAR MR. CHIEF JUSTICE: After twenty-one years on this Court, the past eleven as Chief Judge, I must advise that continuing medical problems preclude further service in that capacity and that I elect to retire under Section 372(a) Title 28 USC. Accordingly, I attach pertinent medical data together with my doctors' recommendation for immediate retirement and will appreciate the necessary certification to accompany my letter to the President.

I regret the necessity for this action but trust future circumstances will permit further judicial service in the less demanding duties of a Senior Judge. Meanwhile may I say that I have enjoyed my association with you, both personally and officially, and wish you the very best for the future.

Respectfully,

(S) EUGENE WORLEY.

U.S. COURT OF CUSTOMS AND PATENT APPEALS,
Washington, D.C., January 12, 1972.

Chambers of EUGENE WORLEY, CHIEF JUDGE

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

MY DEAR MR. PRESIDENT: After twenty-one years on this Court, the past eleven as Chief Judge by designation of President Eisenhower, I must advise that continuing medical problems compel my retirement from that office, and I elect to do so under Section 372(a) Title 28 USC, effective upon the qualification of my successor. Attached is a copy of the necessary certification from the Chief Justice.

Speaking officially, I regret the necessity for this action but hope future circumstances will allow me to resume service in the less demanding role of a Senior Judge.

Speaking personally, may I add that since our House days I have followed your career with deep interest and admiration. I hope I have done my job as well as you have, and are, doing yours. Best of luck, Mr. President.

Sincerely,

(S) EUGENE WORLEY.

FRANCIS C. BROWNE, Representing the Patent and Trademark Bar of the United States Court of Customs and Patent Appeals: Thank you, your Honor. May it please the Court: Chief Judge Worley, Associate Judges of the Court, fellow members of the Bar, distinguished guests, ladies and gentlemen:

The brevity of my remarks should not be construed in any way as meaning a lessening of the sincerity and heartfelt wishes that go with them. I do not speak here in behalf of any particular association. I think and hope that my remarks will reflect the sentiments of my fellow members of the Bar on this Court.

There is a beautiful song, the title is "Yesterday, Yesterday." I'd like to talk about our yesterdays, today. We will wait until tomorrow to talk about today—as another yesterday. Although it seems like it was only yesterday that I was admitted to the Bar of this Court, it was actually twenty seven years ago come next Monday. That day happened to be V–E day—that's a yesterday that I remember for both reasons. I was still in uniform at that time. On that day the presiding judge as he was then called was Finis J. Garrett, and sitting with him were Judges Bland, Hatfield, Johnson and O'Connell, none of whom is with us today. Five years after I was admitted, there came a yesterday in the minds of those of us who are here today, and that was when President Truman appointed Your Honor, Eugene Worley, a forty-two year old Congressman from Texas "Associate Judge" of this Court, the beginning of a long and dutiful career. You were junior-most on the Court just below the late Chief Judge Noble Johnson—of course, another yesterday, we all remember was when Noble Johnson succeeded Chief Judge Garrett, as Chief Judge of this Court. Judge Jackson had retired in the meantime—if you want to call it retiring. He went on to have a still further career which I think brought credit to this Court, certainly recognition as a Constitutional Court even though Judge Jackson had to establish that through the medium of a criminal case involving the famous Benny Lurk. The Court now stands as of that yesterday as a Constitutional Court ranking along with all other Circuit Courts of Appeals and the U.S. Court of Claims. The only court which is superior to it is the Supreme Court of the United States.

I think, Chief Judge Worley, you can be proud of having been Chief Judge of such an illustrious court for the long period of time that you have served as Chief Judge. When Judge Johnson retired and you became Chief Judge, Judge Johnson exercised his prerogative of retiring in the fullest sense of the word. As I understand it, after the day of retirement he never appeared in any court anywhere, as contrasted with Judge Jackson. I miss those people who were with us in those yesterdays. Literally, yesterday I appeared before this court to argue a case, that was yesterday. Yesterday, Judge Worley was not present, but today he is here. Today we want to do honor for your years of public service and to let you know that we are all aware of the years of suffering and the hardships that you have undergone. We wish you well in your retirement. We hope sincerely that you will choose wisely how to spend your retirement—whether it be as active as Judge Jackson or as inactive as Judge Johnson. You have earned it—you are entitled to it, and we hope you will take advantage of this prerogative in whatever way you see fit. As long as we have todays, you can be sure we are always going to have yesterdays. When tomorrow comes today will be yesterday, and let's right now give thanks for all of the yesterdays that we have had, and let's pray that Chief Judge Eugene Worley will have endless years of tomorrows.

Chief Judge WORLEY. Thank you, Mr. Browne, I do appreciate your very thoughtful and gracious tribute.

Mr. WILLIAM MATHIS, *Secretary of American Patent Law Association.* May it please the Court: I appear here on behalf of the American Patent Law Association. Our association is very pleased and honored to be able to join in paying tribute to you, Judge Worley, on this occasion. We are grateful for the fine service you have rendered over the many years to this branch of law that is so important to all of us in the association. We wish you the very best in the months and years to come for your personal happiness and health. Thank you very much.

Chief Judge WORLEY: Thank you, Mr. Mathis. Of course I have had all of twenty two years to prepare an appropriate speech for this occasion, but nevertheless I find myself unprepared. I am reminded of a fellow in Texas who queried his doctor how he could live to be 100 years old. The doctor advised—never take a drink, never smoke, and have nothing to do with the opposite sex. The Texan asked "If I follow your advice, will I really live to be 100?" The doctor said "No, you really won't but it will sure seem like it!"

In a way it seems like I have been on this bench for 100 years. In another way, it seems like I have completed merely a few weeks. In all my years of public life, I frankly haven't found a more demanding, yet pleasant, job than this has been. As a member of Congress, it was seldom that any one vote made any particular difference. As a member of this Court, however, one vote can and frequently does make a critical difference in the resultant precedents that have been established. I have played a part in writing the opinions supporting our decisions, which I understand number over 200 since I have been on the Court. I hope those opinions will remain a strong force, and will serve as solid, helpful precedent in the determination of congressional intent in the years to come.

I want to thank my colleagues (and Mr. Justice Tom Clark, the judges from the Customs Court, Court of Claims, Court of Appeals and District Courts who so kindly consented to sit with this Court during my enforced absences) for their cooperation and for their frequent help, especially during the last two or three years when medical problems precluded my regular attendance. I had hoped to round out twenty-five years of service, a quarter of a century, on this Court. But, it wasn't in the cards—it is sort of like the fellow that President Truman once referred to, whose epitaph on a tombstone in Boot Hill stated simply "Here Lies John Brown. He Done His Damndest." Well, I done my damndest, but I just wasn't quite able to make it. I hope that the future will allow me to sit again with this Court which is my first love, or a sister tribunal in need.

I retire with mixed emotions—regret, pride, relief and satisfaction. Regret in that I was unable to round out a quarter century of service to the Court, pride in its sound progress and solid achievements over the years, relief from the everyday burdens the office has entailed, and satisfaction that under my successor's and colleague's leadership the Court will continue as a vital influence in our judicial system.

Again, I want to thank the Clerk, the Reporter, my Law Clerk, Secretary and Court Staff, who made this Court, I think, one of the best working units in the land—productive and efficient. I am proud of every one of them—I am proud of my colleagues, and I trust that my successor will be afforded the same cooperation that I have had. So, from the bottom of a grateful heart, I express my appreciation to all of you—I pay you all my deep respect.

The Honorable PAUL P. RAO, Judge, *United States Customs Court.* May I congratulate the Court of Customs and Patent Appeals on the fact that it is dedicating volume 59 of its decisions to the recent Chief Judge of the court, the Honorable Eugene Worley, at this time. To my mind, the recipient of such an honor, as well as his friends and relatives, deserves the opportunity to enjoy it and to know the high esteem and respect in which his colleagues, the members of the Bar and the public hold him.

I have also shared with Judge Worley the administrative problems and responsibilities which fall to a chief judge of a National court. It has been my pleasure to know Judge Worley for many years, not only as a learned and distinguished jurist, but as a warm personal friend. Although my entrance into the field of customs jurisprudence preceded his, I have long respected his work in that branch of the law and have valued his opinions as pertinent and authoritative in the many cases coming before me for decision. In addition, it has been my privilege to serve on several occasions, at his request, as a judge of the Court of Customs and Patent Appeals in patent cases and to have benefited by his knowledge and assistance in that highly specialized field.

Judge Worley's career has included service as a legislator in his native state of Texas and as a member of Congress for five terms. He was appointed to the Court of Customs and Patent Appeals by President Harry S. Truman in 1950 and was named Chief Judge by President Dwight D. Eisenhower in 1959. His contributions as a legislator and as a judge have won for him the respect and approbation of his colleagues and all with whom he has come in contact, not only for his fairness, integrity, and ability, but for his warm human attributes.

There comes to mind, at this time, the following lines of poetry which seem particularly applicable to former Chief Judge Eugene Worley:

He lives for those who love him
For those who know him true
For the heaven that lies above him
And awaits his coming, too
For the cause that needs assistance
For the wrongs that need resistance
For the future in the distance
And the good that he can do.

My very best wishes to Judge Worley, for good health and happiness for many years to come.

S. WILLIAM COCHRAN, *Solicitor of the Patent Office.* It is gratifying to have this opportunity to comment on the retirement of Judge Worley from active service on the Court.

On the occasion of the last session at which Judge Worley presided, Mr. Joseph Nakamura, Deputy Solicitor, spoke on behalf of the attorneys in the Office of the Solicitor of the Patent Office, and it is not possible to improve on or embellish significantly the remarks he made at that time. Particular emphasis might be lent, however, to Mr. Nakamura's statement regarding Judge Worley's demeanor toward attorneys appearing before the Court at oral argument. He was invariably forceful but temperate, direct but courteous. His sense of humor was legendary and seldom was there a session of the Court when his wit was not in evidence.

Judge Worley's opinions, not to mention his dissents, revealed, above all, a deep sense of dedication to the public good and to development of the patent law to that end. His departure from the Court is indeed an occasion for regret.

C. MARSHALL DANN, *President of the American Patent Law Association.* The American Patent Law Association is pleased to have this opportunity to pay tribute to Judge Eugene Worley for his long service and substantial contributions to the work of the Court of Customs and Patent Appeals. His high standards of what constitutes patentable invention and the consistency and integrity with which he adhered to these views have earned him the respect of the patent bar. He has our best wishes in his retirement.

FORMER TECHNICAL ADVISERS TO CHIEF JUDGE WORLEY

We welcome the opportunity to offer our congratulations and to pay tribute to Eugene Worley on his retirement as Chief Judge of the United States Court of Customs and Patent Appeals. It is indeed fitting that this last volume of the CCPA Reports be dedicated to him.

We, of course, were privileged to observe and participate in only a very small segment of the Judge's long and distinguished career as a public servant. We are cognizant that his intensive legislative experience in Texas and in Congress permeated his actions and his approach to the legal issues decided by the court. Foremost in his mind, as he expressed to us on many occasions and is evident from many of his opinions, was the question "What did Congress intend?" On resolving that question, he followed to the best of his ability the precept that the judicial function is to interpret law, not unnecessarily create it or judicially legislate it. In carrying out that role as he saw it, we unhesitatingly say that he was a judge's judge, and a man of uncommon common sense.

During the course of his tenure as judge, the court grew in stature from that of an administrative tribunal to that of an Article III federal court, and acquired courthouse facilities equal to its distinguished position in the federal court system. Several years ago, at the induction of the Honorable Donald E. Lane as an Associate Judge of the Court, Mr. Houston Kenyon, representing the New York Patent Law Association, voiced some cogent, perceptive remarks concerning the early history of this court and its evolution over the years which bear repeating here:

"* * * I think what the Court in those [early] days was seeking was continuity and that it eschewed change. Then came a period of change. It's easier to say that it came than when it came, but there are some criteria by which the beginnings of this change may be dated and I would like to date it from the date of commissioning of the present Chief Judge of this Court and to characterize the Court that now exists under a name that I borrow from the other end of Pennsylvania Avenue with one changed word. I will call it the Worley Court.

"Two days ago a well known but presently inactive New York lawyer, dressed in cutaway and striped pants, addressed the Supreme Court of the United States on the occasion of the commissioning of a new Chief Justice. On this unprecedented occasion Attorney Nixon said and I would like to quote: 'Change without continuity can be anarchy. Change with continuity can mean progress. Continuity without change can mean no progress.'

"It is my submission in summing up the past of this Court that The Worley Court has combined continuity with change in such manner as to achieve definite progress in the development of patent law and in the awareness of the public interest which is paramount in the patent law. For this, I cite these five instances—these five items of evidence:

"First, the opinions of this Court have come to exhibit a high order of legal craftsmanship; second, the dissents, not frequent, but not infrequent, have possessed a bite and quality which has gone far to characterize what this Court is deciding; third, the frequency with which this Court's opinions are now cited by the District and Circuit Courts is clear evidence of the leadership which this Court has acquired in the field of patent law; fourth, the willingness of judges from other courts of the United States to sit upon this bench in times of need including a retired Justice of the Supreme Court of the United States, is evidence of their acceptance of this leadership; and finally, a landmark opinion of the Supreme Court of the United States has characterized this Court as a Court in the Judicial Branch of the Government. These five items seem to me to add up to clear evidence that the continuity with change which has come about in The Worley Court has spelled progress—progress in the vindication of patent law as a fair adjustment of equities in a competitive industrial democracy, and progress in the recognition of a public interest in avoiding the creation of improper monopolies that would hinder the progress of science and the useful arts."

Those sentiments regarding the kind of institution the CCPA has become during Judge Worley's 22-plus years on the Court—particularly during his thirteen-year tenure as Chief Judge—accurately reflect our own feelings. We know that Judge Worley deeply appreciated those remarks—more so than he would publicly confess. From the vantage point of "insiders", we have known the Judge to be a believer in progress—in change with continuity. We should not let this opportunity pass without a frank recognition of the courage and dedication with which Judge Worley shouldered his judicial and administrative duties over the last eight years of his active career while laboring under the most difficult and debilitating physical circumstances. We are confident that at least one of his regrets in early retirement is not to be able to fully and continuously participate in the change and progress that no doubt is yet to come. In that regard, we cannot repress entirely a sense of remorse at the inconstancy of things. But we take a measure of solace in a passage from Sandburg's *The People Yes* reporting the response of the savant who was asked by the pharaoh to reveal to him four words that could be inscribed on his tomb and that would last forevermore. That savant's response—"This too will pass"—illustrates that nothing is immutable, and so it must be said now of what must be considered, particularly by those of us privileged to work with it, as The Worley Court.

There are so many more accolades that can be expressed that one hardly knows where to stop—but knowing the Judge's predilection and appreciation for brevity, we purposely keep the length of our congratulatory comments to a minimum. In closing, we thank you, Judge, for the guiding, pervasive role you have played in the development of this court and of the patent, trademark and customs law over the years you have graced the bench. It has been a job well done. And, in a more personal vein, we thank you too for your characteristically deep, abiding, ever human, even paternalistic interest in us and our welfare, and for providing us with inspiration, intellectual challenge, dedication, a rewarding learning experience and a sense of self esteem. Perhaps the greatest gifts that any man can possess are the ability to command the unswerving loyalty of those around him and to give to others a portion of himself. Here, Judge, you have no equal. We have enjoyed working with you. We wish you well.

From your "sons-in-law",
ROBERT W. HABEL (1960–61).
JAMES E. ALIX (1961–62).
LAWRENCE G. KASTRINER (1962–63).
STANLEY H. LIEBERSTEIN (1963–64).
GERALD H. BJORGE (1964–73).

THE WHITE HOUSE,
Washington, D.C., January 26, 1972.

Hon. EUGENE WORLEY,
Chief Judge, U.S. Court of Customs and Patent Appeals, Washington, D.C.

DEAR JUDGE: While my letter of January 17 includes the formal acknowledgement of your impending retirement, I also wanted to thank you for the kind personal comments you included in your letter of January 12. The world as well as the United States has changed a great deal since the days when we were fellow members of the sweatshirt crew, as you so aptly commented a little more than a year ago. The challenges today seem as exciting as they did in those early post-war days, however, and I greatly appreciate your encouragement. It means all the more, coming from a man who has served our country with the selflessness and distinction that have marked your outstanding career.

Sincerely,

(S) RICHARD NIXON.

Mr. CASEY. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Texas (Mr. CASEY).

Mr. CASEY. I thank the distinguished dean of our delegation for yielding.

Mr. Speaker, I did not have the privilege of serving in the House with Gene Worley, but I had not been a Member of this body or moved to Washington many hours before I considered Gene

Worley a warm and close friend. He was that type of man. You could not be with him but a few minutes until you realized what a genuine, sincere and warm human being that he was.

Also, Mr. Speaker, what made his friendship so wonderful was that he had such a tremendous sense of humor and he was always in a very jovial mood. Even during the last years of his illness, when all of us knew that Gene Worley's life was not what he really would like for it to be, he was always cheerful, never complained, and he was always good company.

I might add to these remarks a little human note, Mr. Speaker. Gene Worley loved to get the better of his friends in the way of wagers on football games and boxing matches, and he got the better of them by giving them the option of stating their odds, as we might term it, and then giving them the choices.

Mr. Speaker, although I did not have the pleasure of serving with Gene Worley, I would daresay that I have lost more dollar bets to Gene Worley than any one of his close associates.

Gene Worley was a bright spot in my life. We used to carry on debates concerning who was the better barbecuer, and I must admit that he was one of the best. He used to debate—humorously, of course—concerning who was the better on picking football teams, and I must admit that he outpicked me.

Even though he left the House of Representatives, Gene Worley's heart was here in the House. He was a great defender of this body, although we need no defense. But to those who did not know this body, Gene Worley was one of the first to point out the work that individual Members had accomplished and the problems and duties they had.

He was very active in our Texas State Society. Gene Worley was one who headed up the Portrait Committee which resulted in that beautiful, handsome portrait of our late great Speaker, Sam Rayburn, which now hangs in the building that bears Speaker Rayburn's name.

Mr. Speaker, Gene Worley's contributions to his district are well known, but his contributions of a warm friendship to his fellow man are known only to those who had the honor and privilege of being his friend.

He, of course, was blessed with a wonderful wife, Ann, and their children are epitomized by the exemplary kind of man and the exemplary kind of woman Gene and Ann Worley have been.

Mr. Speaker, it is with a great deal of sadness that we make these remarks today, but it is also with pride that we have the honor and privilege of speaking about a truly great American and a warm friend.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Speaker, I thank the distinguished dean of the House for yielding to me.

Mr. Speaker, I did not have the privilige of serving with the Honorable Gene Worley in this House. He had resigned many years before I came here, and at that time was sitting on the bench. But, Mr. Speaker, his reputation and his record were known to me before I came to this House.

He was a great Texan; he was a great American. He contributed very significantly to the life of America and to the life of every single individual through his performance and work in this House and through his work on the bench.

It is with heavy heart that I rise today to offer my condolences to his wonderful family, his wife and children who have also made tremendous contributions through the many sacrifices that they made as the family of a public servant.

Mr. Speaker, it is with a great deal of pride that I say that Gene Worley was my friend, and that my life has been enriched because of that fact.

Mr. POAGE. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Texas (Mr. POAGE).

Mr. POAGE. Mr. Speaker, I did serve with Gene Worley. In fact, at one time I lived in what was then the district that he later represented. Therefore, I know something of the feeling of the people of that area for Gene, both as an individual and as a public servant. He was held in the highest regard in every respect.

He rendered a great service to the people of this country, especially of the great Panhandle area of Texas. He set an example as a friend, a father, and a family man. He was a great citizen of our State.

His services only began with his legislative service in the House of Representatives both at Austin and in Washington. He went on to serve in the Judicial Branch for many years and was recognized by lawyers and laymen as being one of our outstanding judges.

Unfortunately, for a good, long time before his death he was almost confined to his home and was not able to render the great service that he had previously rendered, but never would he let his troubles overcome him. He continued to speak out for the things in which he believed, even after he was suffering from physical disability.

Gene Worley was the kind of man whom we all admired. He was a thoroughly human individual, but at the same time was thoroughly qualified for all of the positions which he undertook and held with so much distinction to his State.

We all hate to lose the services of the man. More than that, we hate to lose the companionship of a great friend. Like others who spoke, I feel that it is something we can all be proud of, to say that we were Gene Worley's friend.

Mr. PATMAN. Mr. Speaker, I yield to the gentleman from Texas (Mr. BURLESON).

Mr. BURLESON of Texas. Mr. Speaker, with the recent death of Judge Eugene Worley, all of us who knew him over the years share a great personal loss.

It was my privilege to serve with Judge Gene Worley here in the House of Representatives for many years. We had a close association. From that association and observation I learned many things which cannot be read out of a book or learned under any formal instruction. He had one of the keenest senses of humor which I have ever known any man to possess. He was able to make that clear but important distinction between not taking himself too seriously but taking his responsibilities and dedication to public service most conscientiously. By this characteristic I think he permeated and influenced all of us who were near him and had his association here in the Congress, on the golf course or in the home.

Gene was always readily available to give the benefit of his solid judgment but never imposed an opinion on anyone. This, too, is a rare gift.

Not only was Judge Worley a man dedicated to public service for a long period of time, but he was loyal to his friends and to his family in what I always considered a perfect husband and father. These qualifications make a man with unquestioned integrity.

Our sympathies go out to his remarkable family. Judge Worley's wife Ann has also been our close friend and associate and we wish for her God's comfort.

Mr. PATMAN. Mr. Speaker, I yield to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, Gene Worley was an able legislator, as a member of the Texas Legislature, and as a congressman from the panhandle of Texas. His record is good. His service was outstanding.

But even as much as his record was good, his recognition as an interesting individual was also outstanding. Gene Worley caught your attention. He was the center of activity wherever he was. He was involved in everything. With a twinkle in his eye, he could cook up more mischief—with love—than anyone I knew with the possible exception of the late beloved Paul Kilday. He was loved by Speaker Sam Rayburn, but he could get the Speaker so worked up with some delightful prank that the Speaker would nearly burst with concern. If it had not been for his lovely wife, Ann Spivey Worley I believe there were times the Speaker would have done violence to Congressman Worley. Yet in the next instance, the Speaker would love him up in a show of deep affection.

His sense of humanness—and devilment—was unparalleled. But he was loved dearly by his colleagues and friends. At the same time we were all alerted to some possible calamity that Worley might have planned for us by Congressman Worley.

I was not privileged to serve with him and I have known his wonderful wife and his devoted and loyal brother Seibert Worley for many years. They are all good people, fine folks as we say in the Southwest.

The mention of Gene Worley brings an immediate smile, and perhaps a chuckle. He was indeed a great character. He was interesting. He was able and he will be remembered for a long, long time.

Mr. PATMAN. Mr. Speaker, at this time I am happy to yield to the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I thank

my friend the distinguished gentleman from Texas (Mr. PATMAN) for yielding me this time.

Mr. Speaker, I join with my colleagues from Texas and throughout the country in paying tribute to the late Eugene Worley, a real friend, whom we shall all miss. It was my privilege to serve here with Gene for many years. He was an attractive person of intelligence and industry. I never saw him out of humor or when he could not deal with the most controversial subject in a straightforward manner as my colleagues have stated, he had a twinkle in his eye even in the midst of serious debate.

I was very close to Gene in many ways. I recall on one occasion he paid me the honor of asking me to go out to his district and speak. As I recall, I went to Amarillo. He was from the smaller town of Shamrock. They had a new clerk at the hotel, and I asked him about Mr. Worley, and the new clerk, who was not a Texan, did not know Mr. Worley. I never did let Gene forget that.

I am sure I found the only man in his district who did not know Gene Worley.

Mr. Speaker, Gene Worley leaves a fine record in the history of his country, both as a Congressman and a judge. We all shall miss him. To his family and loved ones we extend our deepest sympathy

Mr. Speaker, we all have lost a friend and an honorable statesman.

Mr. PATMAN. Mr. Speaker, I am happy at this time to yield to the distinguished gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, it was not my privilege to serve with Gene Worley in the House, but I knew him as a friend and as a generous, warmhearted human being.

If ever a man had a genius for friendship it was Gene Worley. He made friends by the thousands simply because of the kind of person he was. His consideration for others was instinctive and constant.

He had a deep-rooted knowledge of government and all its ramifications. He brought to his work as associate judge and later chief judge of the Court of Customs and Patent Appeals both understanding of the law and a sense of fairness.

Gene Worley was a fascinating conversationalist. His sense of humor made him an always delightful companion. All who knew him will miss him and will treasure memories of his friendship.

With other Members I extend my heartfelt sympathy to Ann Worley, his wife of many years, and a full one-half of a distinguished couple.

Mr. MORGAN. Mr. Speaker, all who knew him mourn the passing last December of Francis Eugene Worley, one of the Nation's finest citizens.

It was my privilege to meet Gene Worley when I first came to Congress as a freshman years ago. He was already an experienced Member of the House, and I valued his warm and wise counsel. Our friendship grew as time passed.

Gene left a distinguished career as a legislator in 1950 to become an associate judge of the U.S. Court of Customs and Patent Appeals, where again he rendered outstanding service to the country. He presided over the court as chief judge from 1959 until his retirement in 1972.

Judge Worley was much loved by his constituents and by his countless friends in the Washington area. His life enriched us all. We will miss him.

Mr. BROOKS. Mr. Speaker, Judge Francis Eugene Worley, at the time of his death last December, was a distinguished member of the judiciary. His service as chief judge of the Court of Customs and Patent Appeals was only the last in a long line of service to the country he loved so dearly.

He was a man dedicated to improving the lives of all Americans. From his early days as a member of the Texas House of Representatives, through his service in this body and later on the court, his life was given to public service. During that time, he distinguished himself in many ways but the adjective most frequently applied to him was "courageous." He refused to compromise his principles.

He fought determinedly and without quarter for those things he believed were in the best interest of the citizens of Texas and our country. Having been born in Oklahoma, he soon moved to Texas and exercised his considerable talents in the service of his adopted home State. He had established an illustrious place in our history.

I join all Texans and all Americans in expressing our condolences to his family and I know that they are justifiably proud of Judge Gene Worley, a great American.

Thank you.

GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the subject of the late Eugene Worley.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A COMMUNITY BETRAYED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, Texans live in the midst of some of the world's greatest repositories of energy. Texans have never had any reason to believe that they would run short of energy. There is plenty of oil in the State, so much so that up until very recent times the problem has not been how to find enough of it, but how to keep the industry from drowning in over-production. Perhaps 40 percent of the entire Nation's natural gas supplies come from Texas. Living as we do in the midst of all this oil and gas, we have never been prepared for the shock of an energy crisis.

Yet it has happened.

A few months ago, San Antonio woke up to an enormous curtailment in natural gas supplies. The situation was nearly catastrophic. The city gets its electricity from natural-gas fired generating plants, and those plants suddenly could get little or no gas. But no such emergency had ever been contemplated, so there was only enough fuel oil—the alternate, emergency generating fuel—to last for a few days. Not much could be found immediately, and if it could be, transportation of enough fuel oil to keep the boilers going was nearly an impossible task.

But somehow the city survived the crisis. There was no blackout, but there is no question that the city of San Antonio hung on the verge of a catastrophic electrical blackout for a period of several weeks. The emergency continues even today, although San Antonio has now assembled enough oil and storage facilities to allow it to survive almost any kind of natural gas curtailment.

But the price has been high. Energy bills in San Antonio have soared, because of the cost of obtaining that oil, and building new oil facilities, and converting the generating facilities so that they can run on oil for extended periods of time. And the energy bills have also been increased because the city now pays nearly six times as much for what natural gas it can get as it did before the emergency happened, and during this emergency there has been a total breakdown of the processes of public utility regulation.

The shock of this is indescribable. Here is a community in the heart of some of the richest gas fields in the world, suddenly without gas. How did it happen?

The truth of it all has been slowly emerging.

Every thoughtful citizen has felt dark suspicions about the situation. Such emergencies do not build up overnight; they develop over a long period of time. Why was there so little warning, so little awareness?

At first, it seemed that the city had been defrauded by its gas supplier. And indeed, the facts that have emerged in the past several months show that the gas supplier was guilty of fraud and deceit.

But there is unfortunately more to it than this. Facts that I now have in my possession show that the city in fact was betrayed—betrayed by the incompetence and over-confidence of its own leadership, by the greed of the gas supplier, and by the duplicity of many of those who were engaged in the management of the city's utility, and the gas supply company, itself.

Moreover, there has been an extensive effort to hide the truth. Powerful forces have been brought into play. These forces are still at work. There have been threats; there has been intimidation; and there has been lying.

The Securities and Exchange Commission at one time suspended trading in the stock of San Antonio's gas supplier, Coastal States Gas Producing Co. The SEC obtained consent decrees against the company, intended to stop some of the more flagrant abuses that were taking place.

The Federal Power Commission has not been so active. There is evidence that the FPC has been unduly protective of Coastal States; it has attempted to stifle individuals who have tried to take strong action to rectify the stupefying inaction of the Commission; and it has ignored

recommendations that Coastal States be cited for criminal misconduct.

The question right now is whether the SEC will also avoid taking criminal action against Coastal States. There is reason to believe that grounds exist for such action.

But has the mysterious power of Coastal States infected the SEC as much as it has the FPC? Only time will reveal that. But I believe that if the SEC fails to act, it will only affirm what the documents I have suggest—namely: that Coastal is not only strong enough to stymie effective State and local action against it, but also to stop any meaningful Federal action, as well.

The documents I have show without a doubt that San Antonio was deceived and betrayed from the first day that it ever started considering a gas contract with what later turned out to be Coastal States.

The documents I have show that Coastal States lied and maneuvered, and that it, with the sometimes willing and witting help of local leadership who should have known better, bound San Antonio to a tragic contract.

San Antonio may never escape the consequences of this betrayal. But if we are going to avoid repeating the past, we have to know what happened. I intend to show what happened, chapter and verse.

I intend to help San Antonio avoid tomorrow the pitfalls of the past. I will shortly begin publishing the facts that are in my possession, which have been painstakingly assembled, and which are true beyond any shadow of a doubt.

Other communities might learn something from this tragedy. I hope that my own does.

FREEDOM OF ACCESS ACT FOR THE ELDERLY AND HANDICAPPED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 15 minutes.

Mr. COHEN. Mr. Speaker, one of the most serious and least understood problems facing elderly and handicapped citizens today is the large number of architectural barriers that thoughtlessly stand in their way.

Today, along with Congressman BURKE of Massachusetts, I am introducing in the 94th Congress the Freedom of Access Act for the Elderly and Handicapped. The measure, which we also introduced in the 93d Congress along with 82 of our colleagues, provides tax incentives to encourage owners of buildings and transportation facilities to remove existing structural barriers from the paths of the aged and disabled.

For too long, we have tacitly ignored our duty as a compassionate nation to see that our handicapped and elderly have as productive a role in our society as possible. Handicapped people must surmount many obstacles alone. We need not compound the physical and psychological problems of these citizens with structural barriers that keep them shut away from interaction with the rest of their community. Surely, it is not unreasonable to strive for the day when our country can meet the challenge of providing equal access to services and opportunities for all its inhabitants, whatever their relative mobility.

The exact number of individuals limited by our collective thoughtlessness is unknown, but several estimates underscore the breadth of the problem. The National Center for Health Statistics reports that there are approximately 6 million Americans whose mobility is restricted as a result of physical handicaps of a chronic medical condition. Over 16 million elderly citizens, plagued by natural processes of aging, are also affected by structural barriers. The Department of Transportation estimates that at any one time more than 4.6 million people are temporarily disabled by a serious but short-term illness or injury. Together, these groups represent almost 44 million Americans whose lives and opportunities would be immeasurably enriched and expanded if needless architectural barriers were removed.

In 1971, James Hilleary of the American Institute of Architects testified before the Senate Special Committee on Aging that the provision of three basic features would make buildings available to all the handicapped. The first is an easily negotiated entrance door. It must be of sufficient width for wheelchair entry, and have a gently sloped access ramp.

The second feature of an accessible building is a provision which would allow the handicapped to reach all floors. Most multistoried structures have elevators, but these elevators must be easily approachable and have a control panel within reach of wheelchair-ridden individuals.

Finally, any building that can serve the entire population must have at least one washroom for each sex suited for use by the handicapped. One stall which is of sufficient size for maneuvering a wheelchair and which has grab bars and an elevated water closet is a real necessity.

Structural changes in buildings, however, are not necessarily enough to allow the elderly and handicapped to lead a self-sufficient life. Often the aged and disabled are also burdened with an appalling lack of adequate transportation. For a few people, specially adapted private transportation, such as automobiles with expensive hand or foot controls, can be the answer. But the blind, partially sighted, the deaf, the severely handicapped, and the poor are unable to avail themselves of these options. Thus, for the vast majority of aging and handicapped citizens, public transportation is the only alternative. Unfortunately, public transportation usually is not designed to provide accessibility to the entire public. Platform steps, curbs, turnstiles, and stairs can all be insurmountable challenges to an elderly or disabled person trying to ride a train, bus, or subway. It is no wonder that the President's Task Force on Aging reported:

> It is as important for the Nation to develop or have developed special transportation arrangements for older persons as it is for the Nation to meet their income, health, and other needs.

Mr. Hilleary and other experts agree that the changes necessary to make buildings accessible need not be extensive nor prohibitive in cost. The General Services Administration has estimated the expense of removing architectural barriers from commercial buildings and transportation facilities to be approximately 1 percent of the total construction costs. At the same time, the potential benefits of this effort are enormous. Only about one-third of our Nation's chronically handicapped between the ages of 17 and 64 are employed—half the number per capita as in the nonhandicapped population. If the architectural and transportation barriers were removed, some 200,000 handicapped citizens could return to work. Employment of this group would yield an estimated minimum of $824 million—a sum which overwhelmingly offsets the cost of this bill. These estimates ignore the additional benefits of larger tax revenues, reduced welfare rolls, and easier access for the handicapped to vocational and educational training.

As important as these statistics are, however, a cost-benefit analysis can tell only part of the story; the importance of freedom of access for the preservation of human dignity is an equally vital reason for America to act to remove architectural barriers. As Dr. Henry Betts of the Rehabilitation Institute of Chicago has remarked:

> Centuries ago, parents of deformed or handicapped babies in Sparta abandoned their infants on the hills, and the Eskimos still abandon their aged on icebergs. We're supposed to be the most progressive of societies. But by designing the vast majority of facilities and services to meet the needs of the "average" young, able-bodied American, by creating an environment with architectural barriers which limit the mobility of millions of Americans, we have taken the disabled and aged off the hills and the icebergs and imprisoned them in their homes.

Mr. Speaker, I submit that it is time to give the Nation's disabled and elderly a productive place in our society. We must now take the necessary steps to place commercial buildings and public transportation within the reach of all of America's citizens. I urge my colleagues to lend support to the Freedom of Access Act which we are introducing today to provide incentives needed to accomplish this goal. I sincerely hope that prompt and favorable action on it will be taken by the 94th Congress.

SEVENTY-ONE MEMBERS INTRODUCE FAMINE PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 10 minutes.

Mr. FINDLEY. Mr. Speaker, I have today introduced a bill to alleviate world hunger and avert widespread famine.

The bill provides funds to U.S. land-grant universities so they, in turn, can help build land-grant type universities in food-deficit countries.

The 69 U.S. land-grant universities represent a unique resource. The education they have carried directly to farmers—through the classroom, extension

and applied research—over the past century is largely responsible for the superiority of American agriculture.

In the past 20 years, using only $42 million in U.S. funds, they have helped to build nine successful new land-grant type universities overseas. Our bill authorizes a maximum of $150 million a year to enable them to expand this program swiftly and substantially.

In our view, this is an effective way for the United States to help meet the world food crisis.

The text is the product of extensive consultation over the past year with experts in land-grant education, as well as Federal officials.

I am pleased at the broad bipartisan and prestigious support this proposal has already received.

Among the 70 cosponsors on this first day of introduction are the chairmen of four of the standing committees of the House, Chairman THOMAS FOLEY of Agriculture, Chairman HAYS of House Administration, Chairman RODINO of Judiciary, Chairman PERKINS of Education and Labor. Also included are these ranking minority members: Congressman WILLIAM BROOMFIELD of Foreign Affairs, ALBERT QUIE of Education and Labor, FRANK HORTON of Government Operations, GILBERT GUDE of District of Columbia, and DELBERT LATTA of Budget Committee.

The list of cosponsors includes 15 members of the Committee on Foreign Affairs and 17 members of the Committee on Agriculture.

The breadth and enthusiasm of support gives me hope that hearings on the bill can occur in the near future.

The complete list of cosponsors follows:

LIST OF COSPONSORS

Bella S. Abzug (N.Y.)
Herman Badillo (N.Y.)
Alvin Baldus (Wis.)
Bob Bergland (Minn.)
Jonathan B. Bingham (N.Y.)
Don Bonker (Wash.)
David R. Bowen (Miss.)
Wm. S. Broomfield (Mich.)
George E. Brown, Jr. (Calif.)
John Buchanan (Ala.)
Shirley Chisholm (N.Y.)
James C. Cleveland (N.H.)
Ronald V. Dellums (Calif.)
Butler Derrick (S.C.)
Pierre S. du Pont (Del.)
Don Edwards (Calif.)
Floyd J. Fithian (Ind.)
Daniel J. Flood (Pa.)
Thomas S. Foley (Wash.)
Edwin B. Forsythe (N.J.)
Donald M. Fraser (Minn.)
Bill Frenzel (Minn.)
Gilbert Gude (Md.)
Tim L. Hall (Ill.)
Tom Harkin (Iowa)
Michael Harrington (Mass.)
Philip H. Hayes (Ind.)
Wayne L. Hays (Ohio)
Margaret M. Heckler (Mass.)
Henry Helstoski (N.J.)
Frank Horton (N.Y.)
James M. Jeffords (Vt.)
James P. Johnson, Colo.)
Barbara Jordan (Tex.)
John Krebs (Calif.)
John J. LaFalce (N.Y.)
Delbert L. Latta (Ohio)
Robert L. Leggett (Calif.)
Jerry Litton (Mo.)
Marilyn Lloyd (Tenn.)
Matthew F. McHugh (N.Y.)
Edward R. Madigan (Ill.)
Spark M. Matsunaga (Hawaii)
Ralph H. Metcalfe (Ill.)
Abner J. Mikva (Ill.)
George Miller (Calif.)
Robert N. C. Nix (Pa.)
David R. Obey (Wis.)
James G. O'Hara (Mich.)
Carl D. Perkins (Ky.)
Albert H. Quie (Minn.)
Charles B. Rangel (N.Y.)
Frederick W. Richmond (N.Y.)
Donald W. Riegle, Jr. (Mich.)
Peter W. Rodino, Jr. (N.J.)
Robert A. Roe (N.J.)
Benjamin S. Rosenthal (N.Y.)
Edward R. Roybal (Calif.)
Paul S. Sarbanes (Md.)
Keith G. Sebelius (Kans.)
John F. Seiberling (Ohio)
Paul Simon (Ill.)
Stephen J. Solarz (N.Y.)
Fortney H. Stark (Calif.)
Charles Thone (Nebr.)
James Weaver (Oreg.)
Charles Wilson (Tex.)
Larry Winn, Jr. (Kans.)
Antonio Borja Won Pat (Guam)
Gus Yatron (Pa.)

Mr. Speaker, the bill which is today being introduced is the result of an intensive effort which began last November and involved many different people.

The first draft was H.R. 17265, which I introduced on October 15, 1974 and became the basis of hearings on November 26, 1974 by the Agriculture Committee's Subcommittee on Department Operations, chaired by the gentleman from Texas Mr. DE LA GARZA.

Participating in the hearings were several officials of the land-grant universities, as well as Dr. Russell McGregor, director of governmental relations of the National Association of State Universities and Land-Grant Colleges. The university witnesses were Dr. Elmer Kiehl, dean of the college of agriculture, University of Missouri, Dr. Jackson A. Rigney, dean of international programs, North Carolina State University, and Dr. D. Woods Thomas, director of international programs in agriculture, Purdue University.

Dr. Orville Bentley, dean of the college of agriculture, University of Illinois, had planned to be a witness, but due to cancellation of an aircraft flight, was unable to attend. His statement was entered in the hearing record.

Copies of the hearing record, titled "Food Relief Programs," Serial No. 93–VVV, are available from the document room.

The legislation on which they commented was the embryo of the language introduced today. The discussion that day convinced me first of all of the inadequacy of H.R. 17265 but, more important, of the soundness of the basic idea.

Immediately after the hearing, I met with the witnesses and we agreed to embark upon a consultation process with the goal of perfecting the legislation in time for introduction soon after the opening of the 94th Congress.

Of particular assistance were Dr. McGregor of the university association, Hadley Read, author of "Partners With India," book length account of the successful establishment of nine new land-grant type universities in India and himself of a veteran of that experience as a member of the University of Illinois faculty, as well as specialists of the U.S. Department of Agriculture and the Agency for International Development.

In all, more than 20 different drafts of the legislation were considered. Several of these were circulated broadly among land-grant specialists throughout the country in order to tap the suggestions and reactions of many minds.

The legislation is designed to enable the land-grant universities in this country to undertake this substantial new responsibility without impairing the valuable services they continue to render to the American people.

The funds will be available for enlargement of local teaching and training facilities, as well as for the specific projects in foreign countries. Both aspects are necessarily longterm.

The U.S. land-grant universities were not built in a day. While each has extensive resources and many already have substantial programs underway in international education, the needed expansion of local capabilities will take time.

Once a U.S. university is ready to undertake the critical and complicated task of helping build a land-grant type university in a foreign country, the negotiation of an agreement, the organization of the new institution and the commencement of instruction and extension services will also take time.

But every day's investment in the education of farmers will pay dividends. In my view, this program is so solidly based on practical experience and success that it gives great promise of eradicating famine from the Earth within our lifetime.

The prospective benefits to the American people are substantial. First of all is the satisfaction of helping to meet a growing and grave humanitarian need, reducing human misery and degradation. Second is the benefit that comes from reducing famine-bred perils in the form of disease, civil disorder and even war.

The prospective benefits to our economy are also substantial. This bill authorizes cooperation in which both parties will surely benefit. Our agriculture will undoubtedly benefit from the research projects and exchange of scientists and teachers. In a broad sense the experience will cause our U.S. land-grant universities to be enriched substantially to the advantage of the U.S. students who will attend in future years.

And of course, as developing nations build their own road to self-support in food they will then have a solid base from which to expand their economies so they can become cash customers for goods and services in world commerce, including U.S. products.

The land-grant system is a unique American invention. The Morrill Act was truly a landmark in the history of education. It set as a goal higher education of the common people—especially farmers. Through this act the United States became the first country in world history to establish an extensive program of college-level education for farmers.

Indeed, even at this date, I can name no other country which has made a similar commitment.

The land-grant system has evolved

into a combination of classroom, research and extension experience. It literally brings continuing education to farmers and farm families through an extension service. This continuing education program exists in every county of the Nation except three sparsely settled counties in Nevada.

Through it, farmers are kept up to date on modern farming methods, new seeds, soil additives, and research developments.

Under this bill the U.S. universities which have had such broad experience in the classroom and extension education of farmers—and in carrying forward with practical research—will be given the opportunity to bring the food-producing genius of this system to foreign countries which need improved production.

The bill is deliberately designed to fix responsibility for the success of these foreign enterprises on a single U.S. university. It is also designed to give maximum flexibility to the university to adjust its approach to the requirements of the foreign country.

This means that a specified land-grant university will be the prime contractor for the building of the agricultural university in a particular foreign area. However, the bill authorizes subcontracting so that the prime contractor can draw upon the resources of other universities, colleges, foundations, and agencies in the United States.

Many developing countries have the proper climatic and agronomic conditions to produce ample food for their populations. All they need is well-trained, well-motivated farmers.

Investment in agricultural education makes sense abroad, as it does here at home.

This program will not have the drama of shiploads of wheatstreaming endlessly to food-deficit countries but in time, it will build the foundation for successful and enduring self-help.

Instead of creating dependency and despondency as often occurs when handouts get to be a habit, this program will build self-sufficiency and self-respect.

My most famous constituent, President Abraham Lincoln, began the land-grant college system in 1862, with the signing of the First Morrill Act. I believe this bill is the logical extension of the system to the international level.

It is often true that programs cannot be successfully transplanted from one nation to another. But the success of international land-grant programs has already been demonstrated in India where six U.S. land-grant schools, including the University of Illinois, have helped to establish nine new agricultural schools in the past 20 years. The cost of this accomplishment has been only $42 million, including U.S.-owned local currencies.

Such programs will be swiftly and substantially expanded by this bill.

Here is the text of the bill:

H.R. 2436

A bill to prevent famine and establish freedom from hunger by increasing world food production through the development of land-grant type universities in agriculturally developing nations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress declares that, in order to prevent famine and establish freedom from hunger, the United States should help increase world food production by strengthening land-grant universities in the United States to enable them to assist and cooperate in developing and improving land-grant type universities in agriculturally developing nations.

The Congress so declares because it finds:

(1) that the establishment, endowment, and continuing support of land-grant universities in the United States by federal, state and county governments has led to agricultural progress in this country;

(2) that land-grant universities in the United States, through two decades of experience, have demonstrated their ability to cooperate with other nations in expanding indigenous food production, while continuing effective support of U.S. food production for both domestic and international markets; and

(3) that land-grant universities in the United States need a stable source of financial assistance from the federal government in order to expand, or in many cases continue, their cooperative efforts with other nations.

DEFINITIONS

SEC. 2. As used in this Act--

(a) The term "land-grant universities" means those colleges or universities in each state, territory or possession, or the District of Columbia now receiving, or which may hereafter receive, benefits under the Act of July 2, 1862 (known as the First Morrill Act) or the Act of August 30, 1890 (known as the Second Morrill Act).

(b) The term "land-grant type university" means a school of higher education in a foreign country which:

(1) conducts classroom teaching programs in agriculture, animal sciences, and vocational and domestic arts appropriate to local needs;

(2) either conducts or cooperates in programs of extension work, through which knowledge concerning food production is made available directly to farmers and farm families;

(3) either conducts or cooperates in carrying out agricultural research; and

(4) is organized to encourage the interaction among teaching, research and extension work through adaptation of land-grant principles to the local characteristics and needs.

FINANCIAL ASSISTANCE TO LAND-GRANT UNIVERSITIES IN THE UNITED STATES

SEC. 3. (a) The President is authorized to provide financial assistance to land-grant universities under appropriate memoranda of understanding, to enable them to:

(1) Strengthen their capabilities in teaching, research and extension work relating to food production, processing, distribution and nations;

(2) Develop a proposal for an agreement with an agriculturally developing nation, or university in such nation, to carry out one or more of the programs specified in paragraph (3) of this subsection; and

(3) Enter into and carry out cooperative agreements with agriculturally developing nations or universities in such nations, for the conduct of one or more of the following programs designed to aid in the development of land-grant type universities in the cooperating nation:

(A) cooperation in developing capacity in the university in the cooperating nation for classroom teaching in agriculture, animal sciences, or vocational and domestic arts appropriate to local needs;

(B) cooperation in agricultural research to be conducted in the cooperating nation, at an international agricultural research center, or in the United States as a means of enriching the teaching process, providing knowledge and information useful to either university or nation, or promoting increased efficiency in the production, marketing, distribution, or utilization of food commodities in either nation;

(C) cooperation in the planning, initiation and development of extension services, through which information concerning agriculture and related subjects is made available directly to farmers and farm families in the agriculturally developing nations by means of education and demonstrations; and

(D) cooperation in the exchange of educators, scientists and students between the two nations for the purpose of assisting in the successful development of the university in the cooperating nation.

(b) The President shall determine which foreign nations are agriculturally developing. He shall establish and maintain a list of agriculturally developing nations which express an interest in establishing or developing land-grant type universities and shall periodically circulate this information to all land-grant universities in the United States.

(c) The President shall also solicit from land-grant universities with which he has entered into a memorandum of understanding pursuant to section 4 of this Act proposals for agreements between such universities and agriculturally developing nations or universities in such nations.

UNDERSTANDINGS AND AGREEMENTS

SEC. 4. (a) To be eligible to receive financial assistance under this Act, a land-grant university must enter into a memorandum of understanding with the President. The President shall submit each proposed memorandum of understanding to the International Land-Grant University Advisory Board for its review and evaluation before entering into such memorandum. The memorandum of understanding with regard to each land-grant university shall contain such terms and conditions as may be agreed upon but at a minimum shall contain the following:

(1) a provision that an official of the land-grant university shall be designated to be responsible for the programs carried out by such university under this Act;

(2) the terms under which the land-grant university may obligate and expend funds for the formulation and execution of proposals relating to the establishment or development, or both, of a land-grant type university in an agriculturally developing nation, including terms under which subcontracting with other United States institutions or agencies may occur; and

(3) a requirement that the land-grant university shall submit an annual report to the President, which report shall include a statement of the activities carried out by such university pursuant to the memorandum of understanding during the preceding 12 months and a projection of all such activities, if any, that it may contemplate during each of the next ten years.

(b)(1) Before entering into an agreement with an agriculturally developing nation or university in such nation, a land-grant university shall submit the proposed agreement to the President for approval. Before approving a proposed agreement the President shall submit it to the International Land-Grant University Advisory Board for review and evaluation.

(2) Each agreement between a land-grant university and an agriculturally developing nation or university in such nation shall set forth the level, character and duration of the obligations that the land-grant university and the cooperating nation or university in such nation agree to assume, and shall include provisions to insure that the university in the cooperating nation is a land-grant type university as defined in section 2(b) of this Act.

INTERNATIONAL LAND-GRANT UNIVERSITY ADVISORY BOARD

SEC. 5. (a) To assist in the administration of the programs authorized in section 3 of this Act, the President shall establish an International Land-Grant University Advisory Board to be composed of four representatives from the Federal Government, one of whom shall be designated by the Secretary of Agriculture, and four representatives from the land-grant universities in the United States. The Board shall remain in existence indefinitely.

(b) The duties of the International Land-Grant University Advisory Board shall include, but not be limited to providing for:

(1) review and evaluation of memorandum of understanding between the President and land-grant universities, and each substantial amendment thereof;

(2) review and evaluation of proposals for agreements between land-grant universities and agriculturally developing nations or universities in such nations before final approval by the President;

(3) oversight of agreements and domestic activities authorized by this Act and undertaken by land-grant universities to assure compliance with the purposes of this Act; and

(4) recommendation to the President for the apportionment of funds to the President for administrative expenses and to land-grant universities which have entered into memorandum of understanding with the President pursuant to section 4 of this Act.

(c) In making recommendations pursuant to subsection (b)(4) of this section the International Land-Grant University Advisory Board shall consider all pertinent factors, including the following:

(1) the capacity of the land-grant university in the agricultural sciences;

(2) the capacity of the land-grant university to maintain an appropriate balance of teaching, research and extension functions;

(3) the capacity, experience and commitment of the land-grant university in international agricultural efforts; and

(4) the priority of the problems to be solved in the cooperating nation.

WITHHOLDING OF FUNDS

SEC. 6. If the President determines that a land-grant university with which he has entered into a memorandum of understanding has failed to comply with the requirements of that memorandum or has failed to carry out the provisions of an agreement with an agriculturally developing nation or university in such nation, he may withhold any funds apportioned or due such land-grant university.

FUNDING

SEC. 7. (a) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act, but not to exceed $150 million in a fiscal year. Such sums are to remain available until expended.

(b) Funds authorized under this Act shall be in addition to any allotments or grants that may be made under other authorizations.

(c) Land-grant universities may accept and expend funds from other sources, public or private, in order to carry out the purposes of this Act. All such funds, both prospective and in hand, shall be periodically disclosed to the President, as he shall by regulation determine, but no less often than in each annual report.

EXERCISE OF FUNCTIONS

SEC. 8. The President may exercise any functions conferred upon him by this Act through such agency or officer of the United States Government as he shall direct. The head of any agency or any officer to whom functions under this Act are delegated by the President may promulgate such rules and regulations as may be necessary to carry out such functions, and may delegate authority to perform any such functions, including, if he shall so specify, the authority successively to redelegate any of such functions to any of his subordinates.

REPUBLICAN POLICY COMMITTEE STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 5 minutes .

Mr. CONABLE. Mr. Speaker, the Republican Policy Committee has approved statements of energy and congressional reform which I would like to submit for the RECORD so that all may be informed of them:

JANUARY 29, 1975.

ENERGY: A TIME FOR ACTION

A comprehensive energy and economic program was proposed in the State of the Union Message two weeks ago. It is a necessarily complex answer to a complicated problem. It is preferable to many other proposed partial or simplistic alternatives and is superior to the most destructive option of all: doing nothing.

The first step to implement this program was taken when the President acted to impose an import fee on crude oil, beginning February 1. This fee will be linked to an equalization plan to spread the financial burden throughout all regions of the country.

In H.R. 1767, a step backward is being taken. This bill would do two things: First it slows down the President's energy program by prohibiting him from imposing the import fee for 90 days. Then, in an effort to prevent a veto, it includes in the same bill an increase in the temporary debt ceiling. We deplore such tactics and will work for a separation of these dissimilar proposals.

It has been 15 months since the Arab oil embargo. Action is needed now, not further delay. "Time" can no longer serve as an excuse for postponing the beginning of a concerted national energy program.

Given their past repeated failures, it is unlikely that the Democratic leadership in *any* amount of time will develop comprehensive solutions to the energy problem. Last December, the Democrats tried in Kansas City to address themselves to energy and economic problems, and again in mid-January, the House Democratic Caucus attempted to articulate a comprehensive answer.

They have not succeeded because in the current situation there are no easy, pleasant solutions. After 15 months, 90 more days will not change this basic truth. Sacrifice and readjustment are unpleasant but necessary realities. Rationing is a frequently-mentioned alternative, but if enacted would prove far less equitable or effective in meeting national goals than the President's energy package.

After over a year of energy "crisis" we can afford no more delay. The President has indicated a willingness to compromise all but the needs for balance in the final formula. Nevertheless, if the Democratic Congressional leadership insists on continuing their tactic of "confrontation politics" over this measure, then Republicans in the House should be prepared to vote to sustain a veto of this bill. Far preferable would be constructive Congressional action to consider, modify if required, and enact a comprehensive energy program.

KING CAUCUS FRUSTRATES CONGRESSIONAL REFORM

At the opening of the 94th Congress, the Democratic "King Caucus" used secret meetings, the unit vote and the gag rule to force adoption of anti-reform rules on the operation of Congress for the next two years.

Rules are important. They govern the formulation of measures and debate and decision-making on issues, influencing and often determining the substance of final action. When a legislative body has as lop-sided a two-to-one majority as we do in the 94th Congress, procedural matters define the narrow margin between tyranny of the majority and a fair, open legislative arena which allows all Representatives a chance to contribute and to be heard.

The credibility of national government has slipped to an all-time low in public esteem in the post-Watergate period. Not surprisingly, many candidates, including a majority of the newly elected Majority members, campaigned on platforms of reforming Congress, opening up the system, and increasing accountability and public access to decision-making. But their first actions upon arriving in Washington negated those very promises. Instead of reform and openness, the Democratic "King Caucus," acting secretly in closed-door meetings, used the discredited "unit rule" to bind all its members to vote down significant reforms enacted late last year.

Regrettably, the no-amendment, limited-debate procedure by which these 94th Congress rules were adopted did not allow consideration of several well-considered recommendations of the House Republican Task Force on Reform and Rules Changes. Had Republicans been permitted to contribute, we would have advocated—and still do—the following points:

1. Proxy voting should not be allowed in committees. The late-1974 Congressional reforms rightly abolished all proxy voting; "King Caucus" wrongly reinstated it. Proxies are an irresponsible procedure through which a few privileged Members can use the votes of others to dominate the legislative process. Proxies discourage participation in committee legislative sessions and encourage the substitution of back-room deals for open deliberation and thoughtful legislative craftsmanship. The rule permitting proxy voting is anti-reform and should be promptly rescinded.

2. All committee hearings, business meetings and mark-up sessions and House-Senate conferences should be automatically open to the public as a matter of course. Committees should not be permitted to vote to close hearings unless information negatively effecting important national interests, the personal affairs of an individual, or proprietary information will be discussed.

3. The Rules of the House should prohibit the Democratic Caucus from imposing on its members binding instructions on committee and Floor votes. This practice permits as few as one-third of the Democratic Members, in secret closed meetings, to dictate the outcome of major committee and Floor decisions affecting national welfare by pledging its members to substitute allegiance to Caucus for faithfulness to conscience or constituency.

4. We favor live radio and television coverage of important proceedings as recommended by the Joint Committee on Congressional Operations. Broadcasting the activities of Congress would increase accountability and better enable the public to understand Congress's role in determining national policies.

5. The Democratic leadership should improve the scheduling of debate so that bills can be considered in an orderly, timely, and informed manner, not subject to caprice, extraordinary delay or last minute covert political timing maneuvers. The Rules should be amended to require prompt consideration of bills placed on the Suspension Calendar. Likewise, Congressional recesses—such as the upcoming "Lincoln Day Recess"—should be waived if they would prevent prompt consideration of urgent economic and energy problems. Congress should work a regular five-

day week with specific periods scheduled for Congressional District contact and consultation.

Many of the Rules adopted for the 94th Congress are apparently designed to reduce any meaningful legislative participation or contribution by the 145 Republican Members who represent over 67 million American citizens. We urge the Members of "King Caucus" to keep their campaign pledges to seek Congressional reform and to open up the system. The five items listed above are only a partial list of long-needed reforms which Republicans would like to see considered and debated in full public view by the House Rules Committee and the House of Representatives.

HOME HEALTH CARE: AN ALTERNATIVE TO NURSING HOME CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, the nursing home scandal is now the subject of a number of separate investigations including that of the Subcommittee on Long-Term Care of the Senate Select Committee on the Aging, chaired by FRANK MOSS, a New York State Moreland Commission chaired by Morris Abram and a grand jury investigation headed by Special Prosecutor Joe Hynes.

The corruption, incompetence and failures of the nursing home program now being publicly exposed in the State of New York, I am convinced exist throughout the country. There is a third aspect which deserves equal if not more attention and that is alternatives to the existing nursing home program. Today I am introducing legislation which deals with that subject.

There always will be a large number of our elderly population who will need the full-time services of competently run nursing homes. However, there is a significantly large number of persons in nursing homes or who will enter nursing homes not because they need all of the full-time medical services provided therein but because the reasonable alternative of home health care is not available to them. The average yearly cost for care in a skilled proprietary nursing home facility in New York City is $14,589. Presently the Library of Congress is developing a national average estimate of the cost of providing health care at home. Preliminary estimates I have received range from $3,000 to $9,000.

I have been advised that a report prepared for the Department of Health, Education, and Welfare and for the Social Security Administration shows that there are now approximately 1,070,000 persons, elderly and disabled, in skilled and intermediate care nursing homes. It indicates that between 14 and 25 percent of those persons are being unnecessarily maintained in an institutional environment because there are no alternatives available.

My legislation is intended to cover the following areas:

Section 1 would allow unlimited home health visits, if necessary to maintain an individual outside of a hospital, nursing home, or other institutional facility, under part B of medicare's supplementary medical insurance. Under the current program, a patient is limited to 100 visits. Under the legislation, a patient would qualify for these services on the basis of specific criteria—eating, mobility, and so forth—in order to avoid abuses of claims for need. The Secretary of HEW would be required to promulgate regulations, based on the functional criteria listed in the bill, to determine patients' eligibility for the provisions of the act. In addition, the payment given cannot exceed payments which would be provided if the individual were receiving institutional care.

A medicare doctor's recommendation of need would immediately be effective, but his affirmative recommendation would be reviewed within 30 days by a three-doctor panel, which may cancel the assistance. In addition, if the panel finds that the initial doctor was malfeasant in purposely recommending that a patient required assistance when he did not, the panel has the power to strip the doctor of his right to serve medicare—or medicaid, if in violation of subsequent sections of the bill relating to medicaid—patients in the future. The doctor retains his right of judicial appeal of the decision.

Section 1 would also expand home health services under medicare by adding a full range of services—not just doctor and nurse visits, but "homemaker" services—assistance in household tasks, shopping, walking, and such other services as the Secretary of HEW deems necessary to maintain an individual outside an institution.

Section 2 would increase the home health services of part A of medicare's supplementary medical insurance, the provisions covering post-hospital care, from 100 to 200 visits, as would be accomplished in a pending Muskie-Church bill in the Senate. In addition, correlative services would be provided identical to those in section 1.

Section 3 requires States to include home health services, including the full range of medical and correlative services as defined in section 1, in order to qualify for Federal medicaid funds. The functional criteria and verification mechanism of section 1 apply here also.

Section 4 would permit State medicaid programs to cover payment of rent for elderly or disabled persons who would otherwise require nursing home care. The amount of payment will be the fraction of the total household represented by the elderly or disabled persons involved and is subject to a ceiling conforming with current standards for federally assisted housing.

Section 5 would charge each child over 18 years old of a recipient of the bill's assistance 5 percent of the child's taxable income for the period his parent receives aid. For example, if a married child with two dependent children makes $15,000 per year and takes standard deductions, he would pay $500 per year, while the Federal payment might be as high as $10,000 to $15,000.

Section 6 removes the $10,000,000 limitation in funding authorized under the 1974 HUD Act for demonstration projects for congregate housing for the elderly, the handicapped, and other groups.

Mr. Speaker, I believe that if we were to provide such services, two things would be accomplished: First, the elderly would be assisted in living longer and more productive lives in their own homes where so many want to be and the cost to the taxpayer would be considerably less.

Mr. Speaker, you will be interested in knowing that one of the points of contention among the experts is whether children of an indigent parent—and the cost of nursing home care or home health care is such as to make everyone using those services ultimately indigent—should bear some part of the cost involved. On the occasions when I have asked the question of persons working in the field, the vote has been split approximately equally pro and con. I personally believe that there should be a financial requirement, modest and limited to some figure not to exceed 5 percent of an individual's taxable income. The bill that I am introducing has such a provision and I know it will be a source of controversy. But I think there is an obligation on the part of children to support their parents and not leave it totally to the Government to do so. At the same time I would not want the children to bear a cost which would be oppressive and embitter their personal relationships. As an example, under my bill, a family of four with an income of $15,000 using the standard deduction would pay no more than $500. Finally, there will be some who will attack my bill as one which would provide maid service to everyone covered by it. What they forget is that the Government is now providing registered nurse service for those in homes far more costly than the cost of providing housekeeping services for those not able to care for themselves. Obviously there will have to be strict controls monitoring physicians who certify what services are required for their patients and my bill provides the mechanisms for such monitoring and for penalizing physicians and removing them as ineligible to treat medicare/medicaid patients in cases where they have abused the system.

In conclusion, Mr. Speaker, I would like to emphasize that the legislation I am introducing today is a draft bill for discussion purposes. I have circulated the bill for comments to 150 organizations concerned with the elderly and the disabled. Furthermore, I will be holding a meeting with representatives of many of these organizations in Washington on February 5. On January 24 I had a preliminary meeting with individuals in New York City working with the elderly.

I know that this bill will have to be amended and improved. I urge anyone with expertise in this matter to provide me with their comments. It is my intention, at a later time, to introduce a more perfected bill for cosponsorship.

MAJOR MODERNIZATION OF PANAMA CANAL: INTRODUCTION OF H.R. 198

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

man from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, over a period of years the Congress has conducted comprehensive hearings on various aspects of the interoceanic canal problem and heard many addresses thereon. These include the matter of the major modernization of the existing Panama Canal under the well-known and strongly supported Terminal Lake-Third Locks solution. This proposal was developed in the canal organization as the result of World War II experience and won the approval of President Franklin D. Roosevelt as a postwar project. To provide for such modernization, I have introduced H.R. 198, which will be quoted later in my remarks.

Because new Members of the Congress may not be informed as to crucial features of the canal subject, some of them will be summarized:

First. The major increase of capacity of the existing canal by the construction of an additional set of larger locks was originally authorized in 1939 at a cost not to exceed $277 million, primarily as a defense measure before the involvement of the United States in World War II;

Second. Construction started in 1940 but was suspended in 1942 because of more urgent war needs. A total of $76,357,405 was expended, largely on huge lock site excavations at Gatun and Miraflores a railroad and vehicular bridge across the Miraflores locks, and a roadbed for relocating the Panama Railroad near Gatun. No excavation was started at Pedro Miguel. The last, in the light of later events, was fortunate for it enabled a comprehensive study of canal operating problems as the basis for planning;

Third. The great feature in the Terminal Lake-Third Locks solution is the creation of an expansion chamber for traffic in the summit level at the southern end of Gaillard Cut;

Fourth. In brief, the plan calls for the physical removal of the bottleneck locks at Pedro Miguel, the consolidation of all Pacific Locks at Agua Dulce to correspond with the layout and capacity of the Atlantic Locks, the creation of a summit-level terminal lake at the Pacific end of the canal and raising the summit water level of Gatun Lake from its present maximum of 87 feet to its optimum height of 92 feet. One set of the proposed new Pacific Locks would be of the same size as the proposed new locks at Gatun. The optimum summit water level of 92 feet mentioned in section 2a of H.R. 198 is that recommended in the report of the Governor of the Panama Canal under Public Law 280, 79th Congress;

Fifth. A total of $95,000,000 was expended on the enlargement of Gaillard Cut from a minimum width of 300 feet to 500 feet, which was completed on August 15, 1970. When this sum is added to that spent on the previously mentioned suspended Third Locks project, the total already invested toward the canal's major modernization is more than $171,000,000;

Sixth. The total U.S. investment in the canal enterprise, incluuding the costs of acquiring the Canal Zone, the construction of the canal and its defense, from 1904 through June 30, 1974 was $6,880,370,000. This sum, if converted into 1975 dollars would be far greater; and

Seventh. Among the outstanding advantages of the Terminal Lake-Third Locks solution are that it—

Enables the maximum utilization of all work so far accomplished on the Panama Canal, including that on the suspended Third Locks project and the Gaillard Cut enlargement.

Can be constructed as "expansion and new construction" under existing treaty provisions and does not require the negotiation of a new treaty, which are paramount considerations. (CONGRESSIONAL RECORD, July 24, 1939, p. 9834).

Preserves the existing fresh water barrier of Gatun Lake, thereby protecting the Atlantic Ocean from infestation by the poisonous Pacific sea snake, the voracious crown of thorns starfish and other marine biological dangers.

Can be constructed at "relatively low cost" with every assurance of success and without the danger of disastrous slides.

Has strong support from important environmental, civic, patriotic, labor, and veterans organizations as well as independent canal and other experts.

Safeguards the economy of Panama.

Provides the best operational canal practicable of achievement at least cost, and without diplomatic involvement.

In view of the serious unemployment now rising in the United States, such project would stimulate U.S. business activities and when completed would leave a work of long lasting value not only for the United States but also for all users of the canal. It would not be a mere "make work" program.

In contrast, the strenuously propagandized proposal for a new canal of so-called sea level design, located in the Republic of Panama about 10 miles west of the existing canal, and initially estimated in the 1970 report under Public Law 88–609, as amended, to cost $2,880,000,000, would require a new treaty with Panama, involving a huge indemnity and the cost of the right of way. As both of these would have to be added to the cost of construction of the proposed sea level canal, the initial cost estimate in the 1970 report is highly unrealistic and definitely misleading.

Such a project would require an estimated 15 years to construct, open a Pandora's box of difficulties, and be less satisfactory operationally than the existing canal when modernized. Moreover, the construction of a salt water channel between the oceans is strongly opposed by important biological, environmental, and scientific groups and publications at home and abroad. Such proposal would seriously dislocate the economy of Panama with major consequences. Although it may never be constructed, the securing of an option to construct it would hinge upon the surrender by the United States of the canal's indispensable protective frame of the Canal Zone to Panama. Such surrender would place the United States in the impossible position of having grave responsibility for operating and defending the Panama Canal without requisite authority.

When the question of increased Isthmian transit facilities is evaluated from its most significant angles, the evidence is conclusive that the major modernization of the existing canal under the time-tested Terminal Lake-Third Locks plan offers the best operational, the most economical, the most logical and the most historically based solution of the canal problem ever devised.

The indicated bill follows:

H.R. 198

A bill to provide for the increase of capacity and the improvement of operations of the Panama Canal, and for other purposes

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 "Panama City Modernization Act".

SEC. 2. (a) The Governor of the Canal Zone, under the supervision of the Secretary of the Army, is authorized and directed to prosecute the work necessary to increase the capacity and improve the operations of the Panama Canal through the adaptation of the Third Locks project set forth in the report of the Governor of the Panama Canal, dated February 24, 1939 (House Document Numbered 210, Seventy-sixth Congress), and authorized to be undertaken by the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), with usable lock dimensions of one hundred and forty feet by one thousand two hundred feet by not less than forty-five feet, and including the following: elimination of the Pedro Miguel Locks, and consolidation of all Pacific locks near Agua Dulce in new lock structure to correspond with the locks capacity at Gatun, raise the summit water level to its optimum height of approximately ninety-two feet, and provide a summit-level lake anchorage at the Pacific end of the canal, together with such appurtenant structures, works, and facilities, and enlargements or improvements of existing channels, structures, works, and facilities, and enlargements or improvements of existing channels, structures, works, and facilities, as may be deemed necessary, at an estimated total cost not to exceed $1,150,000,000, which is hereby authorized to be appropriated for this purpose: *Provided, however,* That the initial appropriation for the fiscal year 1976 shall not exceed $50,000,000.

(b) The provisions of the second sentence and the second paragraph of the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Cogress), shall apply with respect to the work authorized by subsection (a) of this section. As used in such Act, the terms "Governor of the Panama Canal", "Secretary of War", and "Panama Railroad Company" shall be held and considered to refer to the "Governor of the Canal Zone", "Secretary of the Army", and "Panama Canal Company", respectively, for the purposes of this Act.

(c) In carrying out the purposes of this Act, the Governor of the Canal Zone may act and exercise his authority as President of the Panama Canal Company and may utilize the services and facilities of that company.

SEC. 3. (a) There is hereby established a board, to be known as the "Panama Canal Advisory and Inspection Board" (hereinafter referred to as the "Board").

(b) The Board shall be composed of five members who are citizens of the United States of America. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate, as follows:

(1) one member from private life, experienced and skilled in private business (including engineering);

(2) two members from private life, experienced and skilled in the science of engineering;

(3) one member who is a commissioned officer of the Corps of Engineers, United States Army (retired); and

(4) one member who is a commissioned officer of the line, United States Navy (retired).

(c) The President shall designate as Chairman of the Board one of the members experienced and skilled in the science of engineering.

(d) The President shall fill each vacancy on the Board in the same manner as the original appointment.

(e) The Board shall cease to exist on that date designated by the President as the date on which its work under this Act is completed.

(f) The Chairman of the Board shall be paid basic pay at the rate provided for level II of the Executive Schedule in section 5313 of title 5, United States Code. The other members of the Board appointed from private life shall be paid basic pay at a per annum rate which is $500 less than the rate of basic pay of the Chairman. The members of the Board who are retired officers of the United States Army and the United States Navy each shall be paid at a rate of basic pay which, when added to his pay as a retired officer, will establish his total rate of pay from the United States at a per annum rate which is $500 less than the rate of basic pay of the Chairman.

(g) The Board shall appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, a Secretary and such other personnel as may be necessary to carry out its functions and activities and shall fix their rates of basic pay in accordance with chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The Secretary and other personnel of the Board shall serve at the pleasure of the Board.

SEC. 4. (a) The Board is authorized and directed to study and review all plans and designs for the Third Locks project referred to in section 2(a) of this Act, to make on-the-site studies and inspections of the Third Locks project, and to obtain current information on all phases of planning and construction with respect to such project. The Governor of the Canal Zone shall furnish and make available to the Board at all times current information with respect to such plans, designs, and construction. No construction work shall be commenced at any stake of the Third Locks project unless the plans and designs for such work, and all changes and modifications of such plans and designs, have been submitted by the Governor of the Canal Zone to, and have had the prior approval of, the Board. The Board shall report promptly to the Governor of the Canal Zone the results of its studies and reviews of all plans and designs, including changes and modifications thereof, which have been submitted to the Board by the Governor of the Canal Zone, together with its approval or disapproval thereof, or its recommendations for changes or modifications thereof, and its reasons therefor.

(b) The Board shall submit to the President and to the Congress an annual report covering its activities and functions under this Act and the progress of the work on the Third Locks project and may submit, in its discretion, interim reports to the President and to the Congress with respect to these matters.

SEC. 5. For the purpose of conducting all studies, reviews, inquiries, and investigations deemed necessary by the Board in carrying out its functions and activities under this Act, the Board is authorized to utilize any official reports, documents, data, and papers in the possession of the United States Government and its officials; and the Board is given power to designate and authorize any member, or other personnel, of the Board, to administer oaths and affirmations, subpena witnesses, take evidence, procure information and data, and require the production of any books, papers, or other documents and records which the Board may deem relevant or material to the performance of the functions and activities of the Board. Such attendance of witnesses, and the production of documentary evidence, may be required from any place in the United States, or any territory, or any other area under the control or jurisdiction of the United States including the Canal Zone.

SEC. 6. In carrying out its functions and activities under this Act, the Board is authorized to obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5, United States Code, at rates not in excess of $200 per diem.

SEC. 7. Upon request of the Board, the head of any department, agency, or establishment in the executive branch of the Federal Government is authorized to detail, on a reimbursable or nonreimbursable basis, for such period or periods as may be agreed upon by the Board and the head of the department, agency, or establishment concerned, any of the personnel of such department, agency, or establishment to assist the Board in carrying out its functions and activities under this Act.

SEC. 8. The Board may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

SEC. 9. The Administrator of General Services or the President of the Panama Canal Company, or both, shall provide, on a reimbursable basis, such administrative support services for the Board as the Board may request.

SEC. 10. The Board may make expenditures for travel and subsistence expenses of members and personnel of the Board in accordance with chapter 57 of title 5, United States Code, for rent of quarters at the seat of government and in the Canal Zone, and for such printing and binding as the Board deems necessary to carry out effectively its functions and activities under this Act.

SEC. 11. All expenses of the Board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the Chairman of the Board or by such other member or employee of the Board as the Chairman may designate.

SEC. 12. There are hereby authorized to be appropriated to the Board each fiscal year such sums as may be necessary to carry out its functions and activities under this Act.

SEC. 13. Any provision of the Act of August 11, 1939 (54 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), or of any other statute, inconsistent with any provision of this Act is superseded, for the purposes of this Act, to the extent of such inconsistency.

CONGRESSMAN ROBERT F. DRINAN, SPEAKING ON A LAWSUIT TO ENJOIN THE PRESIDENT'S OIL TARIFF, JANUARY 30, 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 15 minutes.

Mr. DRINAN. Mr. Speaker, as many of my colleagues are aware, I am taking legal action against the President of the United States in an attempt to enjoin the imposition of the $3 per barrel oil tariff. I have stated my views on a number of occasions before this body concerning how unfair the increase in oil prices would be on the New England region, and in particular, my State of Massachusetts. With this in mind, I felt that a lawsuit must be brought to halt this unwise action.

I will argue before the courts, Mr. Speaker, that the President does not have the authority to impose such a duty, as under article I, section 8 of the Constitution, Congress is given the exclusive power to "lay and collect taxes, duties, imports and excises." While the Trade Expansion Act of 1962 has been cited by the President as legal authority for such an action, that act only allows him to "adjust the imports" of articles such as oil. This means that the President may restrict imports, but it does not permit the imposition of a tariff duty. Although the executive branch has attempted to sidestep the Constitution by calling the tariff a "license," the courts will not allow the clear intent of this constitutional provision to be subverted.

I would like to bring to my colleagues' attention the actual complaint for mandamus, injunctive, declaratory, and other relief which has been filed in this case. The suit was filed on behalf of 10 New England public utilities as well as myself in the Federal district court for the District of Columbia. The complaint is as follows:

COMPLAINT FOR MANDAMUS, INJUNCTIVE, DECLARATORY, AND OTHER RELIEF

[In the U.S. District Court for the District of Columbia, Civil Action No. 75–0130]

Algonquin Sng, Inc., 1284 Soldiers Field Road, Boston, Mass.; New England Power Co., 20 Turnpike Road, Westboro, Mass.; New Bedford Gas and Edison Light Co., 693 Purchase Street, New Bedford, Mass.; Cambridge Electric Light Co., 46 Blackstone Street, Cambridge, Mass.; Canal Electric Co., 130 Bishop Richard Allen Road, Cambridge, Mass.; Montaup Electric Co., Riverside Avenue, Somerset, Mass.; the Connecticut Light and Power Co., Selden Street, Berlin, Conn.; the Hartford Electric Light Co., 176 Cumberland Avenue, Wethersfield, Conn.; Western Massachusetts Electric Co., 174 Brush Hill Avenue, West Springfield, Mass.; Holyoke Water Power Co., One Canal Street, Holyoke, Mass.; and Robert Drinan, 140 Commonwealth Avenue, Boston, Mass., Plaintiffs, v. William E. Simon, Secretary of the Treasury, U.S. Treasury Department, 15th and Pennsylvania Avenue NW., Washington, D.C.; Frank G. Zarb, Administrator, Federal Energy Administration, 1200 Pennsylvania Avenue, NW., Washington, D.C.; and Francine Neff, Treasurer of the United States, U.S. Treasury Department, 15th and Pennsylvania Ave., NW., Washington, D.C., Defendants.

NATURE OF THE CLAIM

1. This action is to compel by mandamus the issuance of fee-free licenses authorizing the importation of petroleum or petroleum products and to enjoin the collection of fees assessed pursuant to Executive Proclamation No. 3279, as amended (Exec. Proc. 3279) and to have said Proclamation declared illegal and unenforceable to the extent that it requires payment of fees for licenses for importation of petroleum and petroleum products into the United States.

JURISDICTION

2. The jurisdiction of this Court is based on 5 U.S.C. §§ 701–706; 28 U.S.C. §§ 1331, 1332, 1337, 1361, 1651, 2201, and 2202. The amount in controversy in this case exceeds $10,000 exclusive of interest and costs.

PARTIES PLAINTIFF

3. The corporate plaintiffs are a natural gas company and certain public utilities serving the public in the northeast section of the United States, and are dependent in large measure upon imported petroleum and petroleum products for the production and distribution of electric power and synthetic gas. The names of the plaintiffs and the states under the laws which they were

organized and exist follow: Algonquin SNG, Inc. (Algonquin), Delaware; New England Power Company (New England), Massachusetts; New Bedford Gas and Edison Light Company (New Bedford, Massachusetts; Cambridge Electric Company (Cambridge), Massachusetts; Canal Electric Company (Canal), Massachusetts; and Montaup Electric Company (Montaup), Massachusetts. The Connecticut Light and Power Company (CL&P), Connecticut; The Hartford Electric Light Company (HELCO), Connecticut; Western Massachusetts Electric Company (WMEC), Massachusetts; and Holyoke Water Power Company (Holyoke), Massachusetts.

4. Plaintiff, Robert F. Drinan, S.J., is a member of Congress, representing the Fourth Congressional District of Massachusetts and maintains his residence at 140 Commonwealth Avenue, Boston, Massachusetts as well as a year-round district office in Waltham, Massachusetts. Congressman Drinan is a consumer of gas and electricity in the City of Boston, Massachusetts, his established residence, and in Waltham, Massachusetts.

PARTIES DEFENDANT

5. Defendant Zarb is the Administrator of the Federal Energy Administration, is responsible for the implementation, effectuation, and enforcement of Exec. Proc. 3279, and, with Defendants Simon and Neff, is responsible for the collection of the license fees imposed pursuant to Exec. Proc. 3279.

6. Defendant Simon is the Secretary of the Treasury and with Defendants Zarb and Neff is responsible for the collection of the license fees imposed pursuant to Exec. Proc. 3279.

7. Defendant Neff is the Treasurer of the United States and, with Defendants Zarb and Simon, is responsible for the collection of the license fees imposed pursuant to Exec. Proc. 3279.

THE FEE SYSTEM UNDER EXEC. PROC. 3279

8. Executive Proclamation No. 4210, effective May 1, 1973, amended Executive Proclamation 3279 and instituted, *inter alia*, the present license fee system replacing the Mandatory Oil Import Program (MOIP) and modifying the "method of adjusting imports of petroleum and petroleum products." As was provided in the MOIP, no petroleum or petroleum products may be imported into the United States without a license issued by the FEA (Exec. Proc. 3279, § 1(a)). The modification consisted of "shifting to a system whereby fees for licenses" concerning imports were to be charged. MOIP had been established on March 10, 1959 by Exec. Proc. 3279 under the authority of Section 2 of the Act of July 1, 1954, as amended, 72 Stat. 678 (19 U.S.C. § 1352), presently 19 U.S.C. § 1862.

9. Exec. Proc. 3279 is implemented and enforced by the Defendant FEA Administrator. See also, Federal Energy Administration Act of 1974, Public Law 93-275; Ex. Order 11790, effective June 27, 1974. The FEA Administrator is directed to issue allocations and licenses subject to fees, on imports of crude oil, unfinished oils and finished products.

10. Pursuant to the authority of Executive Proclamation 4210, issued April 18, 1973, the FEA Administrator issued regulations implementing that Executive Proclamation and prescribing procedures by which licenses were to be issued to qualified applicants. (May 1, 1973, 38 F.R. 10727).

11. By Executive Proclamation signed by the President January 23, 1975, Executive Proclamation 3279 was further amended to continue in effect the schedule of fees instituted in accordance with Exec. Proc. 4210 and, in addition, provided for a different and higher schedule of fees for the issuance of licenses for the importation of petroleum and petroleum products.

12. The Proclamation amended subparagraph (1) of paragraph (a) of section 3 to provide that licenses shall require, *inter alia*, that with respect to imports of crude oil and natural gas products, over and above the levels established in Section 2 of Exec. Proc. 3279, fees shall be $0.21 per barrel. With regard to imports of motor gasoline, unfinished oils and all other finished products (except ethane, propane, butanes and asphalt) over and above the levels of imports established in Section 2 Exec. Proc. 3279 fees shall be $0.63 per barrel.

13. Additionally, with respect to imports of crude oil, natural gas products, unfinished oils, and other finished products (except ethane, propane, butanes, and asphalt) entered into the customs territory of the United States on or after February 1, 1975 there shall be an additional fee per barrel of $1.00 rising to $2.00 on imports entered on or after March 1, 1975 and to $3.00 on imports entered on or after April 1, 1975. For certain imports refunds of a portion of the $1.00, $2.00, or $3.00 fee may be made to the importer of record, pursuant to Section 3(a)(1)(viii) of Exec. Proc. 3279.

14. Applications for allocations and licenses for imports subject to a fee must be accompanied by either a certified or cashier's check for the full amount of the fee payable to the order of the defendant Treasurer of the United States or accompanied by a bond for not less than the amount of the fee with a surety which is on the list of acceptable sureties on Federal bonds maintained by the Bureau of Government Financial Operations, Department of the Treasury. The bond must be conditioned upon payment to the order of the Treasurer of the United States, within the last day of the month following the month in which the imports were released from customs custody or entered or withdrawn from warehouse, whichever occurs first, unless another time frame is set by the Administrator. If the face value of the bond is reduced below the amount of outstanding liability or if the bond is terminated the Administrator is directed immediately to revoke all licenses issued pursuant to the bond. (Exec. Proc. 3279, § 3(b)).

15. The cash fees received by the Administrator are held by him in a suspense account and may be drawn upon by the Administrator for the payment of refundable license fees. Balances remaining and not required to be reserved are to be deposited at the end of each fiscal year in the Treasury in the Treasury of the United States administered by the defendant Secretary of the Treasury, and credited to miscellaneous receipts. (Exec. Proc. 3279, § 3(a)(1)).

IRREPARABLE DAMAGE TO PLAINTIFFS

16. Plaintiff, Algonquin, owns and operates a synthetic gas plant in Freetown, Massachusetts. This plant uses naphtha, which is a petroleum product under Exec. Proc. 3279, as feedstock in the manufacture of synthetic gas, a large portion of which feedstock is imported by Algonquin and is subject to the licensing and license fees imposed by Exec. Proc. 3279. As a result, Algonquin has paid, and would continue to pay substantial license fees as an importer of such feedstock. If Algonquin is to meet its customer's normal requirements, it will import over one million barrels of naphtha within the next three months and over two million barrels of naphtha during calendar year 1975. A fee-free license has been applied for by Algonquin and has been denied in large part.

17. The remaining corporate plaintiffs are the owners of numerous fossil fueled electric generating facilities in Massachusetts, Connecticut and other States. Said generating facilities require large amounts of residual fuel oil as an energy source, and residual fuel oil is a petroleum product under Exec. Proc. 3279. Plaintiffs have purchased, and are continuing to purchase, substantial amounts of such residual oil from importers who are subject to licensing and license fees imposed by Exec. Proc. 3279, and, in the case of New England, from those who purchase from such importers, and these license fees are, and will be, passed on to said plaintiffs in the form of higher fuel prices. A fee-free license has been applied for by New England and has been denied.

18. Plaintiffs CL&P, HELCO, WMEC and Holyoke, all subsidiaries of Northeast Utilities, a public utility holding company, in the aggregate, consumed 21.5 million barrels of imported residual fuel oil in 1974 and will consume approximately that amount in 1975.

19. Plaintiffs New England, New Bedford, Cambridge, Canal, and Montaup will purchase approximately the following quantities of residual fuel oil within the next three months and during the remainder of Calendar Year 1975:

[Barrels]

	Next 3 mo.	Calendar year 197
New England	2, 900, 000	17, 600, 000
New Bedford	163, 572	599, 764
Cambridge	241, 000	883, 664
Canal	1, 465, 300	5, 372, 780
Montaup	296, 000	1, 250, 000

20. The proposed increase in license fees will substantially increase the cost of fuel to Plaintiffs, will require that rates be increased to customers in the face of increasing public resistance in rate matters and, as to practically all Plaintiffs will create an additional lag in recovery of their costs through revenues with resulting adverse effect on working capital and the cost of capital, and will cause serious damage to relationships with customers. Algonquin will be compelled to absorb the increased costs of fuel and will be unable to pass them along except after extensive administrative proceedings before the Federal Power Commission. The increase in rates by Plaintiffs will cause severe damage and personal hardship to Plaintiffs' customers.

21. Plaintiff Drinan has been injured and shall continue to be injured by the illegal fee system implemented, effectuated, and enforced by the Administrator of the FEA and collected by the Administrator of the FEA, and the Treasurer of the United States, and the Secretary of the Treasury, pursuant to Exec. Proc. 3279, since these illegal actions have resulted and will continue to result in added costs to him as a result of increased utility rates.

22. Because of the imposition and collection of the illegal fees pursuant to Exec. Proc. 3279, the Plaintiffs have suffered and will continue to suffer immediate and irreparable injury, for which there exists no adequate remedy at law.

ILLEGAL NATURE OF THE LICENSING FEES

23. The license fees established by Exec. Proc. 3279 are in circumvention of the duty system. Under Article 1, Section 8, Clause 1, of the United States Constitution, the Congress has the sole power to lay and collect duties and when it exercises that power, all such duties must be uniform throughout the United States. The fees established by Exec. Proc. 3279, do not operate with geographical uniformity, inasmuch as a given importer's obligation to pay license fees may vary depending upon the section of the country into which the particular importation occurs. Exec. Proc. 3279, § (a). These fees are therefore illegal.

24. Exec. Proc. 3279, was issued allegedly pursuant to Section 232 of the Trade Expansion Act of 1962, as amended, (19 U.S.C. § 1862). Neither the Trade Expansion Act of 1962, as amended, nor any other Act of Congress, nor the Constitution itself, delegates to the President the power to establish or require the establishment of license fees such as those established by and puruant to Exec. Proc. 3279.

25. The attempt by the President to restrict importation of petroleum and petroleum products by imposing license fees thereon, absent specifically delegated authority to do so, exceeds his authority and violates Article 1, Section 8, Clause 3 of the

United States Constitution, which confers on the Congress the sole right to regulate commerce with foreign nations and among the several States.

26. The Executive Proclamation issued January 23, 1974, further amending Exec. Proc. 3279, was issued without public hearings having been held or interested parties otherwise having been afforded an opportunity to present information and advice relevant to an investigation by the Secretary of the Treasury relating to the effect of the importation of petroleum upon the national security. Section 232 of the Trade Expansion Act of 1962, as amended, requires the Secretary of the Treasury "if it is appropriate and after reasonable notice [to] hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation." Section 127(d)(3), P.L. 93-618, January 3, 1975.

27. In light of the immense burden placed upon the economy of the northeastern section of the U.S. by the aforesaid license fees, not all of which can be foreseen by these particular Plaintiffs, it was not only appropriate but necessary that hearings be held so that the Plaintiffs, which are so vitally affected by said fees, could present their views. The imposition of such fees without hearings therefore was in contravention of both the letter and spirit of the statute and was an arbitrary and capricious act.

PRAYER FOR RELIEF

Wherefore, the Plaintiffs pray that this Court:

1. Enjoin the Defendant Administrator of the Federal Energy Administration from further implementing, effectuating and enforcing Executive Proclamation No. 3279, as amended, to the extent that it imposes and will impose fees for licenses for the importation of petroleum and petroleum products into the United States, and further enjoin Defendants Administrator of the Federal Energy Administration, Secretary of the Treasury, and the Treasurer of the United States from collecting such fees.

2. Issue a declaratory judgment declaring and adjudicating that Executive Proclamation No. 3279, as amended, is unlawful to the extent that it imposes and will impose fees for licenses for the importation of petroleum and petroleum products into the United States.

3. Order the Defendant Administrator of the Federal Energy Administration to issue import licenses without requiring the payment of fees for these licenses for the importation of petroleum and petroleum products into the United States.

4. If this Court should uphold the legality of Executive Proclamation No. 3279, as amended, enjoin the Defendants from collecting any of the licensing fees described herein until such time as hearings have been held, and findings made, as provided by statute.

5. Order speedy completion and filing of the pleadings.

6. Grant such further and additional relief to Plaintiffs as may be necessary and appropriate.

Respectfully submitted.

Connole and O'Connell: By William R. Connole, Ernest C. Baynard III, One Farragut Square South, Washington, D.C.; Rich, May & Bilodeau: By Michael F. Donlan, One State Street, Boston, Mass., Attorneys for Plaintiffs.

AN ALTERNATIVE ENERGY PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 15 minutes.

Mr. VANIK. Mr. Speaker, I am proposing legislation for consideration as an alternative to President Ford's energy package. It is based on the following legislative proposals.

First. A rationing plan to provide a basic supply of gasoline to every owner of a passenger motor vehicle with appropriate allocations to industry, business, and agriculture. This program will provide everyone with a basic supply of gasoline at current market prices.

Second. A gasoline conservation tax of 20 to 40 cents a gallon to be paid on all gasoline purchased in excess of the basic ration. The tax level would be determined by the President after appropriate hearing and notice. This flexibility will allow the President to change the tax based on the response to conservation and the progress of oil import reductions.

Third. A proposal to limit the President's power to decontrol the price of "old" oil, which currently accounts for 60 percent of our domestic production. The President would only be allowed to increase prices on this oil at a rate not exceeding $1 per barrel per year. This will permit a phase-in of decontrol and cushion the inflationary impact as we adjust to new energy sources coming into production.

These proposals would reduce oil imports and stimulate both additional domestic production and needed conservation while minimizing inflationary price increases. There would be no need for the $3 per barrel tariff on imported crude oil, the $2 per barrel excise tax on domestic crude oil, and the $0.37 per thousand cubic feet excise tax on natural gas used in homes and busineses.

The tax portions of this proposal will be developed by the House Ways and Means Committee. The operation of the rationing system and the old oil price phase-out would be handled by other appropriate committees.

The conservation tax of 20 cents to 40 cents per gallon of gasoline would produce $5 to $10 billion in revenue, of which some considerable portion should be set aside for an energy research and development fund. The balance could be returned to the General Fund of the Government for use as Congress may determine.

The rationing system should be designed to provide adequate supplies for agriculture, commerce, and business. The thrust of rationing should be directed toward the extraordinary consumption of the individual automobile with a procedure or system to deal with special needs.

Presently, the average automobile consumes 1.9 gallons of gasoline per day. If this consumption could be reduced 0.7 of a gallon per car, per day, we could eliminate all crude oil imports.

The rationed gasoline would be available to all purchasers at present prices. There would be no inflationary impact on those who could comply with the conservation effort. The ration could be increased as new oil development and production comes onstream and American oil productivity is moved upward.

CONSERVATION TAX

The conservation tax would make gasoline available to those who seek to purchase supplies over and above the ration. The President would be provided flexibility to determine the exact level of the tax, between 20 and 40 cents per gallon, to maintain the tax high enough to discourage waste or excessive use and low enough to discourage black market procedures which would debase the rationing system. The President would also adjust the tax to meet desired schedules in reducing oil imports—lowering the tax as imports fall and raising the tax if imports should move to higher levels.

Up to $10 billion should be set aside each year out of the revenues of the conservation tax in an energy trust fund designed to provide funds for research and development in alternative forms and uses of energy, and to provide increased supplies and efficient utilization of existing supplies.

The establishment of an energy trust fund would be a Ways and Means decision. The procedure in utilizing the trust fund would be decided by another committee.

OIL PRICING

The development of a 5-year phase-out program of the price decontrol of old oil which constitutes 60 percent of our domestic production will save the consumer over $11 billion in the first year. With the price of old oil permitted to rise at the rate of $1 per barrel, per year, the petroleum industry should be able to generate the capital resources necessary to meet rising costs and develop expanded production.

This alternative approach provides an orderly transition to a free market in oil and avoids an almost catastrophic impact of an $80 to $100 billion jolt to the skyrocketing inflation of these times.

THE FALLACY OF PRESIDENT FORD'S PROPOSALS

The President's proposal moves in one clearcut economic direction—the decontrol of prices on old oil and the deregulation of natural gas. The President's approach is designed to create a reduction in oil imports and gas demand by permitting drastic increases in their price. In a time of crisis and shortage he endeavors to turn the problem over to the energy industry by giving it drastically higher prices and profits on the theory that a free market will produce conservation and new supplies.

However, there can be no free market in a scarce, essential commodity controlled by so few. Today, 64 percent of the crude oil reserves are controlled by eight companies. For 14 years preceding 1973, the domestic oil industry sought and obtained a controlled price by severely limiting foreign imports through the oil import quota program. In this 14-year period, the American consumer paid over $77 billion in extra oil costs in order to protect the domestic oil industry.

In his statements, President Ford charges the OPEC nations with rigging the price of oil by establishing a price cartel, and then he proposes to raise the price of old domestic American oil to the level of what he himself says is a price rigged by the OPEC cartel.

In the year following the Cost of Living Council action which increased the price of old oil to $5.25 per barrel, the consumer paid about $31 billion more for all forms of energy. The total consumer cost of oil and petroleum products rose from an estimated $56 billion in 1972 to $74 billion in 1973 and to over

$102 billion in 1974. If the President immediately prevails in his efforts to decontrol old oil, the price can be expected to escalate to $11 plus the proposed excise tax of $2 per barrel, or a total of $13 per barrel. The Import Tax will equalize the foreign oil price at the same levels. The passthrough of these prices along the energy stream will increase energy costs to the consumer by more than $100 billion. There can be no retreat of inflation in the face of this circumstance.

Thirteen dollars per barrel oil will increase the costs of everything we buy and need. The costs of freight and passenger transportation will soar. The cost of fertilizer and food will multiply. Under my alternative proposal, they would remain relatively constant.

The President's proposal will create horrendous windfall profits which his rebate plan will never offset. The average consumer costs will bear little relationship to the insignificant rebate proposal. The horrendous windfall profits are very likely to escape the tax collector. It has yet to be proven that Congress can pass a meaningful windfall tax program. As these prices anger the consumer, pressures will develop for the elimination of the excise taxes and the import taxes on which the promised rebate on tax reduction is based. The best way to deal with windfall profits is to prevent them from occurring in the first place. There is every likelihood that the Nation will be left with high petroleum prices, high windfall profits to the petroleum industry and increased Federal deficits.

The President's program guarantees continued high inflation and imposes a crushing burden on the consumers at every point along the energy stream. Those who conserve energy are penalized to the same degree as those who waste. His program imposes a special burden on homeowners who have no alternative source of energy supplies for home heating and little capital for realistic conservation measures. Under the alternative proposal, the home users of energy would not suffer these consequences.

The President has suggested that his is a better plan—but up to the present moment, I find little constituency support for what he suggests. There are certainly viable alternatives to the problem—and we should explore them.

WHAT THE JOBLESS NEED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 5 minutes.

Ms. ABZUG. Mr. Speaker, the last Congress passed two measures which I supported directed toward providing relief for the Nation's 6.5 million—December 1974—unemployed workers.

One of these measures, the Emergency Unemployment Compensation Act of 1974, gave an additional 13 weeks of unemployment benefits to workers who had exhausted their regular and extended unemployment benefits. For persons already covered, this means a total of 39 weeks of coverage in most States.

The second measure, the Emergency Jobs and Unemployment Assistance Act of 1974, does two things: First, it sets up an emergency public jobs program; and, second, it extends unemployment insurance coverage to workers not previously protected. These groups are municipal and State employees, domestic workers, and farmworkers. These newly covered workers will be able to draw up to 26 weeks of benefits.

However, the recession has continued to deepen and additional measures are needed to aid persons out of work. We know the state of the economy and the grim situation facing over 6½ million American workers: there are more people out of work looking for jobs today than there have been since the Bureau of Labor Statistics started the present series in 1949. The unemployment rate, 7.1 percent, is topped only by a slightly higher rate reached during the recession of 1957–58.

Unemployment has affected every worker group—the jobless rate for both heads of households and for full-time workers, the groups least likely to lose jobs, were the highest they have been since the statistics have been published. Unemployment rates for other groups are alarming: Teenagers, 18 percent; blacks, 12.8 percent; and women 7.2 percent.

Among occupational groups the unemployment rate for white-collar workers, 4.1 percent, was the highest for this group since these statistics were first recorded in 1958. The job market for manufacturing and construction workers reached 8.6 percent and 15 percent, respectively.

The bill I am introducing is an emergency measure which would be activated in geographic areas experiencing severe unemployment. This bill would impose a floor on State unemployment benefits by requiring that they be at least two-thirds of the worker's average weekly wages with a ceiling of $300 per week. It calls for the Federal Government to supply funds to fill the gap between the State benefit amount and an amount equal to two-thirds of the worker's average weekly wages. It would raise the ceiling on unemployment benefits, providing for a Federal rather than a State regulated maximum benefit level. Currently, benefit levels vary from State to State with each State settings its own standards for benefit eligibility and the level of payments.

Last year the average benefit check was $61 per week—this amount is clearly not adequate to sustain workers and their families, especially during long recessionary periods.

The administration has urged that all States raise maximum weekly benefits levels to two-thirds of the State average weekly wage. However, States accomplish this by increasing employers' payroll tax. I am advocating that the Federal Government assume, at least temporarily, the burden of this payment so that businesses will not be taxed further in this period of recession. This measure is an emergency program designed to alleviate quickly the financial problems of the unemployed and to reduce the staggering burden that increased claims for unemployment benefits have placed on State funds.

Approximately 1,000 members of District 65, Distributive Workers of America, assembled today on the Capitol steps to express their support for this legislation. They were addressed by Members of Congress from New York and New Jersey, including Senators JAVITS and WILLIAMS, and member of the New York House delegation, including myself. Mr. David Livingston, president of District 65, has set forth the union's position on the urgent need for congressional action in a letter to the editor of the New York Times. I am inserting in the RECORD at this point the text of Mr. Livingston's letter:

[From the New York Times, Jan. 29, 1975]

NEW YORK,
January 27, 1975.

To the EDITOR: Our system of priorities is upside down. We have an employment crisis and our leaders propose measures they claim will help everybody but the unemployed. The storm and fury is about a tax cut and energy. Little is said about the immediate needs of the people who hurt most.

Money must be put into their hands right away. The simplest way to do it is by new legislation to improve unemployment insurance. Benefits now run only .50 per cent of wages to a maximum of two-thirds of the average wage statewide. In New York State, the limit is $95 a week.

The present combination of mass unemployment and inflation makes these benefits totally inadequate. Congress should promptly provide funds to permit states to raise benefits to two-thirds of a week's wages and to lift the maximum, which penalizes those who have reached a decent wage.

And millions of Americans are not covered by unemployment insurance. There are many young people, especially in minority groups, who reached the labor market when jobs were simply unavailable. They never got into the unemployment insurance system. We believe that the system should be widened to bring everybody in and benefits extended until jobs are available for all.

Only someone who doesn't understand American workers would believe that these ideas will destroy the incentive to work. We want to work. We don't want to see our skills deteriorate. We want jobs, but until jobs are available, we want decent benefits so our kids won't go hungry.

On Wednesday, 1,000 of our unemployed will gather on the steps of the Capitol. We will put these proposals to our Government leaders and ask them to start turning the world right side up.

DAVID LIVINGSTON,
President, District 85, Distributive Workers of America.

UNLAWFUL CAMPAIGN CONTRIBUTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 10 minutes.

Mr. DANIELSON. Mr. Speaker and my colleagues, today I have introduced a bill to amend sections 610 and 611 of title 18, United States Code, the Criminal Code, to provide that every corporation, labor organization or Government contractor who makes an unlawful campaign contribution shall be fined in an amount equal to the amount of illegal contribution, in addition to any other fines or penalties that may be imposed.

Since the Watergate scandal first became known in its true dimensions, at

least 18 corporations have pleaded guilty to one or more counts of violating our Federal laws against political campaign contributions by corporations or Government contractors. The glaring anomaly is this: While the unlawful contributions of those 18 corporations totaled $1,311,865, the total fines imposed total only $149,000, or only less than 12 percent of the total contributions involved. Moreover, those illegal contributions must be returned to the corporate donors by the recipients, leaving the illegal contributors with a net gain of $1,162,865.

The small fines imposed are not due to laxity on the part of the judges who imposed them. In all but two cases, the fine imposed for each count was $5,000, the maximum permitted by law.

The circumstances I have outlined demonstrate the corporations which make unlawful campaign contributions actually stand to gain by being caught. They get their contribution back, and are fined a maximum of $5,000.

For example, American Airlines pleaded guilty to making an unlawful contribution of $55,000 to the Committee To Re-Elect President Nixon. If the crime had gone undetected, American Airlines' net loss would have been $55,000, the amount of the contribution. But, instead, they were caught. As a consequence of being brought before the bar of justice, their $55,000 was returned to them, and they were fined $5,000. The net result was that American Airlines was $50,000 richer as a result of the criminal process. In addition, they probably received the favor and good will of the donees.

Mr. Speaker, there is no justification for a penal sanction which leaves the wrongdoer in a better position than where the law found him.

My bill provides that corporations and Government contractors which make unlawful campaign contributions shall, in effect, forfeit the amount of the contribution in the form of a fine, which would be in addition to any other fine imposed by law. If that had been the law during the recent spate of unlawful campaign contributions, American Airlines, for example, would have had to pay a mandatory fine of $55,000, the amount of the contribution, in addition to the maximum $5,000 fine now provided for by law, resulting in a net loss of $60,000.

We cannot seriously believe that the $5,000 fine which was imposed on the Gulf Oil Corp., with its vast assets, really hurt it in the least. It would be the equivalent of a person of ordinary means spending 15 cents on a cup of coffee.

It was recognized early in our history, when corporations first became giant financial powers, that they had no place in the political process. The first such law, prohibiting political contributions by banks and corporations was passed in 1907 in response to the same type of wrongdoing which we have observed so recently. At that time, the Congress was concerned about funds which had been donated to the Republican National Executive Committee by corporations to pay for the Presidential elections of 1900 and 1904. Of particular concern was one $48,000 contribution from the New York Life Insurance Co. channeled through J. P. Morgan & Co.

The 1907 act was later codified into the Corrupt Practices Act of 1925 and is now found in section 610 of title 18, United States Code. Unfortunately, the fine has not been increased during the 68 years that this law has been on the books.

Mr. Speaker, the great concept of our Government was articulated by Daniel Webster in 1830—

> The people's government, made for the people, made by the people, and answerable to the people.

Corporations have been held to be "persons" within the safeguards of the Constitution, but they are not "people," and that being the case, they have no business competing in the marketplace of ideas. Corporations are organized for the sole purpose of making a profit. At best, corporate actions can only reflect the ideas of their managers and directors as to how to make a profit. They already have one vote each, as well as the right to make campaign contributions individually. There can be no justification, and indeed it would be harmful to our society, to permit a small group of corporate directors and managers to magnify the impact of their personal ideas hundreds and perhaps thousands of times over, by illegally utilizing the vast corporate wealth which exists in this country—wealth which was amassed only by reason of the special privileges which are accorded to corporations by law.

Yes, corporate campaign contributions are illegal and have been so for the past 68 years. But the law cannot be a deterrent to criminal behavior by corporate management if corporations can violate the law with impunity. In the 18 instances arising out of the 1972 Presidential election, none of the offending corporations suffered a loss in excess of the amount of the contributions involved. All but one came out ahead.

The bill I am proposing would significantly increase the penalties, and the deterrent, to this sort of corporate criminality.

There follows a detailed listing of illegal campaign contributions which have come to light at this time and which were prosecuted to a successful conclusion by the Watergate Special Prosecutor.

SUMMARY OF ILLEGAL CAMPAIGN CONTRIBUTIONS BY CORPORATIONS

Defendant	18 U.S.C. violation(s)	Date of disposition	Amount of contribution	Amount of fine
American Airlines	Sec. 610	Oct. 17, 1973	$55,000	$5,000
American Shipbuilding Co	Secs. 371 and 610.	Aug. 23, 1974	53,000	20,000
Ashland Oil Co	Sec. 610	Dec. 3, 1974	169,365	25,000
Ashland Petroleum Gabon Inc	Sec. 610	Nov. 13, 1973	100,000	5,000
Associated Milk Producers	Secs. 371 and 610.	Aug. 1, 1974	350,000	35,000
Braniff Airways	Sec. 610	Nov. 12, 1973	40,000	5,000
Carnation Co	Sec. 610	Dec. 19, 1973	8,900	5,000
Diamond International Corp	Sec. 610	Mar. 7, 1974	5,000	5,000
Greyhound Corp	Sec. 610	Oct. 8, 1974	16,000	5,000
Goodyear Tire & Rubber Co	Sec. 610	Oct. 17, 1974	40,000	5,000
Gulf Oil Corp	Sec. 610	Nov. 13, 1973	125,000	5,000
L.B.C. & W. Inc	Sec. 611	Sept. 1, 1974	10,000	5,000
Lehigh Valley Co-operative Farmers	Sec. 610	May 6, 1974	50,000	5,000
Minnesota Mining and Manufacturing Co	Sec. 610	Oct. 17, 1973	30,000	3,000
National By-Products Inc	Sec. 610	June 24, 1974	3,000	1,000
Northrop Corp	Sec. 611	May 1, 1974	150,000	5,000
Phillips Petroleum Corp	Sec. 610	Dec. 4, 1973	100,000	5,000
Time Oil Corp	Sec. 610	Oct. 63, 1974	6,600	5,000
Total			1,311,865	149,000

Legend: 18 U.S.C. 610: Contributions by corporations or labor organizations. 18 U.S.C. 611: Contributions by U.S. Government contractors. 18 U.S.C. 371: Conspiracy to commit an offense against the United States.

KOREAN-PHILIPPINE PLEBISCITE—A HOPEFUL SIGN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 15 minutes.

Mr. LEGGETT. Mr. Speaker, I have long had a strong interest in the security and development of South Korea and the mutual interests and relations of our two countries. For some time I have been deeply concerned about the political situation in the Republic of Korea and its effect on the United States-South Korean relationship. In fact, I expressed that concern last November along with 16 other Members of Congress in a letter to President Ford, in which we asked him to use his influence with President Park during his visit to South Korea to reduce or end the political controls that President Park had felt it necessary to impose. To keep the situation in perspective, however, we should keep in mind that President Park did rescind two of the harshest of his emergency decrees last August in the wake of his wife's assassination.

I was quite interested to learn from the press last week that President Park had announced his intention to hold a national referendum on the acceptability of his rule. South Korean voters will be asked to decide whether they support or oppose the major policies of the President. He did not say when the referendum would be held, but it is expected to be in mid-February. President Park has also said that he would resign the Presidency if the vote is not favorable to him.

To me it is essential that we in the Congress look objectively at the facts and articulate our views in the hope that the Korean Government is listening outside as well as inside the country. I am frank-

ly concerned about two aspects of the referendum. One is that it will take place under a law which prohibits political campaigning, in the form of public speeches, posters and press statements, for or against the referendum proposal. My own preference would be that the Government relax these controls in order that South Koreans could have a more open and public debate on the merits of the proposal.

My other concern involved the nature of the referendum itself. The major policy of the Park government is surely unremitting opposition to the ambitions of the North Korean regime to bring the entire peninsula under Communist rule. There would appear to be little doubt, either here or in South Korea, about the validity of that policy. The broader question, however, is whether a martial law constitution which denies its citizens civil liberties, including the right to campaign publicly on referendum issues, is needed to deal with the threat posed by the North Koreans. I am confident that South Korean voters will support by a wide margin the referendum proposal and the policy of opposing the monolithic, oppressive and threatening Kim Il Sung regime in the North. And I might say, parenthetically, that even the sternest critics of the South must admit that there is far more political freedom there than there is under Kim's National Political Security Bureau in North Korea. Nevertheless, while I believe President Park's referendum presents a vivid contrast with the North and will have some value as an expression of South Korean opinion, I also hope he will ultimately see fit to hold a referendum on whether his people want to continue the martial law constitution itself or to live under a greater measure of political freedom.

I would note, in addition, that President Park's is not the only presidential referendum coming up in East Asia in the near future. President Marcos of the Philippines has also asked his people to vote February 27 on the basic question of whether they approve of his rule under his present powers and whether they wish it to continue. President Marcos, too, has said that he would resign if the vote goes against him, and that he would dismantle his administration and establish a parliamentary government.

In sum, I believe that these two plebiscites represent attempts to move toward greater democratization in two States closely allied to the United States which have been heavily criticized for their undemocratic practices in recent years. I think we should encourage the South Koreans and Filipinos to conduct the fairest and most representative referendums that are possible under the political circumstances prevailing in each country.

At this point, I would like to include in the RECORD some recent articles in the press on developments in South Korea and the Philippines:

[From the New York Times, Jan. 23, 1975]

MARCOS PROMISES TO RESPECT VOTE—PLEDGES PARLIAMENTARY RULE IF HE LOSES PLEBISCITE

MANILA, January 22.—President Ferdinand E. Marcos said today that he would return the country to parliamentary government immediately if the Filipino people should vote "no" in the national plebiscite next month on his martial-law regime.

Mr. Marcos said, in an interview: "If they answer 'no,' we will immediately dismantle the present administration and move into a parliamentary form of government."

The referendum scheduled for Feb. 27 will be the third president Marcos has called since he proclaimed martial law in the Philippines on Sept. 21, 1972, dissolving Congress, closing most of the country's newspapers and ruling by decree.

The main referendum questions are whether the people approved of Mr. Marcos's rule under his present powers and whether it should continue.

Former Senator Lorenzo M. Tanada, 76 years old, told 100 people in a meeting at the Cosmopolitan Church here today that Mr. Marcos had no authority to conduct such a referendum. He called for a national boycott of the voting.

Mr. Tanada called also for an end of submissive attitudes, demanded a lifting of martial law and the return of basic freedoms and said he would not "collaborate on the forging of our chains."

LEADERSHIP CALLED KEY ISSUE

President Marcos said in the interview that the fundamental reason he had called the referendum was to ask people whether they had confidence in his leadership.

He spoke at length about the world economic crisis and major issues on which the Philippines must make decisions this year, such as recognition of China and the renegotiation of treaties with the United States. He cited these as additional reasons for holding the referendum.

Asked whether he did not feel it necessary to reconvene the Philippine Congress on an interim basis so that important foreign policy decisions could be ratified, Mr. Marco said: "I had hoped that I could." But, he said, the world economic crisis intervened.

The President did not outline the mechanism by which he would return to parliamentary government in the event of a "no" decision, saying rather that secret public opinion polls had indicated a strong endorsement of his policies in foreign affairs.

It was the first time Mr. Marcos had disclosed publicly that he had had such polls conducted. He described them as "quiet and secret" and said they indicated that public opinion was in favor of his going ahead.

On charges that Filipinos might be afraid to vote 'no,' Mr. Marco said: "I have issued an order that there shall be no one held for any statement against me that has any relation to the issues of the referendum."

[From the Washington Post, Jan. 22, 1975]

PARK ANNOUNCES NATIONAL VOTE TO GET POPULAR BACKING OF RULE

(By Don Oberdorfer)

SEOUL, January 22.—President Park Chung Hee announced today a national referendum within a few weeks to validate his rule in the face of growing opposition. He said he would resign from office if the vote goes against him.

Like a previous referendum which backed his rule a few months after his seizure of unchecked power, the forthcoming balloting evidently will be held under tightly controlled conditions. A little noticed law adopted by Cabinet decree nearly two years ago prohibits any expression of opinion by public, press or politicians about referendum issues, and bars political party members from acting as ballot box observers.

Opposition reaction was immediately negative, on grounds that the vote will be neither free nor fair under present conditions. The major opposition New Democratic Party scheduled a meeting to take an official stand. The splinter Democratic Unification Party denounced the plan, even before the official announcement, as a "sinister scheme" to extend Park's power.

The Korean Christian Student Federation, most of whose national officers are imprisoned for opposing Park's rule, demanded that political prisoners be released before a national vote, and called for revisions in the referendum rules.

Park announced no date for the vote in today's statements, broadcast live over all television networks. Press speculation centered on mid-February. A formal scheduling of the vote, which would bring into effect the restrictions on public comment, must come at least a week before the balloting.

Park won an overwhelming 91 per cent of the votes in the November 1972 referendum just a month after his overthrow of the old constitution and seizure of total power under martial law. All opposition was banned, but the government conducted an extensive enlightenment campaign favoring approval.

In todays 20-minute statement from the executive mansion, Park declared that the last two years have brought remarkable progress to South Korea despite severe trials at home and unremitting hostility by the Communist North. He said his martial law constitution should not be jettisoned so long as the threat from the North continues.

The nation would sink into chaos if his opponents should be successful in overthrowing his rule, he asserted. Nonetheless, he said he considers the balloting a confidence vote by the people and will resign if it goes against him.

The plan to hold a new national vote on his system of unlimited rule called "yushin" or "revitalizing reform" by the 57-year-old ex-general marks a new tactic in Park's effort to deal with his domestic opposition. While it appears unlikely to placate those who deeply oppose him, a referendum might shore up his mandate with the general public and the outside world—if the rules and procedures are seen as fair. If the vote is seen as grossly unfair or rigged, however, it may well create a new wave of disaffection and dissent.

Open opposition to Park's "yushin" rule erupted in student demonstrations in late 1973. Decrees banning dissidence followed, and more than 200 people were imprisoned under these "emergency measures" last year by closed courts-martial. The imprisonment of anti-government church leaders, including a Roman Catholic bishop and Protestant ministers, brought Korean Christians and foreign missionaries into the ranks of outspoken opponents to Park.

Park lifted the decrees in August, in the national uproar following the assassination attempt on his life—and the killing of his wife—by a Korean resident of Japan. Most of those imprisoned on antistate charges remain in jail, however.

The lifting of the emergency decrees permitted a greater degree of political expression, and opponents were quick to use it to propound their views. Late last year some 71 prominent intellectual, church and civic leaders founded a National Council for the Restoration of Democracy and called for repeal of the martial-law constitution and, in effect, termination of Park's rule.

In recent weeks Park's secret police and other state organs have been conducting a campaign to undercut the opposition. The Korean Central Intelligence Agency pressured commercial advertisers to withdraw support from Dong-a Ilbo, the countrys largest and most independent daily newspaper. While financially hurt by the move, the paper has stiffened its criticism of the government since the advertising boycott.

Police agents have also been arresting, interrogating and harrassing leading figures in the anti-Park Civic Council. Former Korea Bar Association chairman Lee Byong Rin, a prominent defense attorney for political

prisoners, was arrested last week on adultery charges under highly unusual circumstances. Mrs. Kim Chong Rye, president of the Korea League of Women Voters, was arrested by secret police and is now serving a 10-day summary court sentence on misdemeanor charges.

Kim Chul, former president of the United Socialist Party, has gone into hiding for fear of arrest. Ham Suk Hun and Kim Jae Ho, both noted resistance leaders under the Japanese and famous persons in Korea, have been called for questioning by the Korean CIA. At least five other senior members of the Council to Restore Democracy, including an opposition party legislator, a Presbyterian minister and the general secretary of the National Council of Churches, are reported under heavy surveillance by secret police.

[From the Washington Post, Jan. 23, 1975]

KOREAS TURN FROM DÉTENTE TO HOSTILITY

(By Don Oberdorfer)

SEOUL.—The leaders of the two halves of the bitterly divided Korean peninsula are talking less about detente these days, and more about military conflict.

U.S. sources here say there is no fundamental change in military alignment in North and South Korea, and no indication of any imminent conflict of serious proportions. Certainly there is no hint that the major sponsors of the two Koreas—the United States, China and the Soviet Union—are interested in a new round of hostilities. Nevertheless, it is a notable fact that the tone and substance of rhetoric on both sides of the demilitarized zone have turned colder in recent days.

President Park Chung Hee of South Korea has been emphasizing the danger of war in recent public declarations, appealing for national unity and arguing that domestic opposition and "Western-style democracy" are unsuitable for this country today.

In his annual New Year's press conference Jan. 14, Park maintained that a North Korean airbase and other new military facilities "intended for use against the South" have recently been constructed. Aircraft operating from nearby Northern bases can reach Seoul within two or three minutes, and newly augmented North Korean artillery across the Imjin River is within easy range of the South Korean capital, he maintained.

"Amphibious equipment and gear for surprise attacks have been moved close to the banks of the Imjin River, and the Communists are now waiting to seize the chance to put this equipment to use," Park declared. He said there is "ample possibility" the North may launch a military invasion during 1975, the 30th anniversary of the Soviet occupation of North Korea. Between then and 1948, when the current North Korean government was installed, the 38th Parallel separating the two Koreas was treated by the Soviets as virtually an international boundary.

The North Korean Workers' Party organ, Rodong Sinmun, called Park's talk of a military threat a "whole string of balderdash" and claimed that South Korea has "ceaselessly perpetrated military provocations" along the DMZ and in nearby waters.

On Jan. 16, Pyongyang's Korean Central News Agency published the text of a speech by North Korean President Kim I. Sung early this month containing more references to military preparations than at any time in the recent past.

According to the agency's text, Kim declared that "The enemy is steadily intensifying his aggressive maneuvers against the northern half of the republic and watching for a chance of invasion. There is no knowing when a war may break out again in our country owing to the aggressive moves of the U.S. imperialists and their lackeys. We, therefore, must make thorough-going war preparations to beat back [any] surprice attack of the enemy."

In the speech, at a Pyongyang meeting of a national agricultural congress, Kim appealed to the farmers to boost grain production to 8 million tons this year to create a 1 million-ton reserve to "be able to fight any enemy and win." He called for thorough preparations to carry on agricultural production even under wartime conditions.

The mood of detente in the Korean peninsula has declined steadily since the two sides agreed to direct talks in a July 4, 1972, joint communique that surprised the world. Both political-level and Red Cross humanitarian talks have bogged down in recent months, and have been downgraded to exchanges by second-level figures. Last week, after a 2½-year hiatus, North Korea resumed propaganda attacks against Seoul through loudspeakers strung along the DMZ.

President Park made us of the detente to impose a new constitution under martial law in late 1972, arguing that it was necessary for peaceful competition with the North. As detente evaporated, he reverted to an earlier pattern of citing "threats from the North" as justification for internal political crackdowns.

Some U.S. experts believe that President Kim has more internal opposition in the North than meets the eye. In this view the "threat from the South" and the promise of victorious unification are useful to him, as their mirror image is to his counterpart in the South.

The need to keep Northern military hopes alive might explain the celebrated tunnel from the North into the southern part of the Demilitarized Zone, announced with a flourish in Seoul just before the November visit of President Ford. The four-foot-high, three-foot wide tunnel—and about a dozen others believed to exist elsewhere under the DMZ—are considered by U.S. authorities to be of dubious military value. In one view, their greatest value is as a display of determination for military activists in the North.

Informed sources say the U.S. military command—and presumably their South Korean allies—had been aware since November 1973 that tunnels were being dug somewhere under the DMZ. The North Koreans are said to have done much of the digging with small explosive charges easily picked up by sensitive electronic gear. One senior U.S. general reportedly vowed to wait with a bludgeon for North Koreans emerging from any tunnels—to bop each man on the head as he came out.

[From the New York Times, Jan. 23, 1975]

CHARTER VOTE DUE FOR SOUTH KOREA—PARK SAYS HE WILL RESIGN IF RESULT IS NEGATIVE

SEOUL, SOUTH KOREA, January 22.—President Park Chung Hee announced today that he would soon hold a national referendum to determine if the Constitution should be retained or abolished. If it is rejected, he said, he will promptly resign.

In a 20-minute speech delivered from his official mansion, the 58-year-old President said the voters should choose chaos or stability, national security or threats of military attack from the North. With a similar theme in 1969 he won a referendum paving the way for his third presidential term.

His announcement did not say when the voting would take place. Under the law it should be held within 60 days after a 20-day public notice period, which began today. It will be the fourth national referendum since 1961, when the retired general assumed civilian power.

The present basic law was confirmed in a referendum in 1972. Although approved by 91 per cent of the vote, it came under heavy fire as soon as emergency decrees forbidding criticism of it were lifted last summer.

On the ground that it gives Mr. Park a lifetime presidency plus vast emergency powers, including the right to convene military courts, the opposition, students and liberal Christians have demanded its abolition and Mr. Park's retirement. About 160 people are in jail for having criticized the charter and the Government.

Answering his critics, Mr. Park said: "It is my conviction that the Constitution should not be amended until Communist threats have vanished. There is no precedent, either in the West or in the East, in which a country was able to overcome its trials without self-restraint and the unity of its people."

The opposition has charged that Mr. Park is using supposed threats from the North to stifle civil rights and prolong dictatorship.

"This is another coup d'etat," said Kim Young Sam, president of the New Democratic party, the largest opposition group.

Kim Dae Jung, President Park's rival in the 1971 election, feared that the voting would not be sufficiently fair to reflect opinion truly. If the voting ends in justifying the Government, he warned, a series of what he termed fearful repressions will follow.

Much criticism of the projected vote centers on the laws controlling it, which stipulate a prison term of up to five years for anyone speaking or writing against its proposals.

EMERGENCY HOUSING HEARINGS

(Mr. BARRETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BARRETT. Mr. Speaker, on Thursday, February 6, the Subcommittee on Housing and Community Development of the Committee on Banking, Currency, and Housing will begin hearings on a number of emergency housing proposals to deal with the depression that the housing industry finds itself in today. We expect to continue these hearings immediately after the Lincoln recess and immediately markup a bill and have it ready for the full committee by early March.

The administration has not to date offered any proposals which seek to stimulate the demand for housing, spur new construction, or offer assistance to homeowners who find themselves, through no fault of their own, unemployed and unable to meet their mortgage payments.

The Subcommittee on Housing and Community Development already has a number of proposals pending before it, including the bill H.R. 29, the Emergency Middle Income Housing Act of 1975, introduced by the distinguished chairman of the Committee on Banking, Currency, and Housing, the gentleman from Wisconsin (Mr. REUSS), and H.R. 34, the Emergency Homeowners' Relief Act, introduced by the gentleman from Ohio (Mr. ASHLEY).

We will hear testimony on Chairman REUSS' bill and Mr. ASHLEY's bill, as well as any proposals that interest groups might have to assist the housing industry.

Anyone interested in testifying should contact the staff of the Subcommittee on Housing and Community Development, room 2129, Rayburn House Office Building, phone number 225–7054.

PEOPLE ARE A NECESSARY INGREDIENT WHEN CONSIDERING ECONOMIES AND EFFICIENCY

(Mr. BARRETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BARRETT. Mr. Speaker, yesterday I inserted a series of articles into the RECORD which recently appeared in the Philadelphia Daily News dealing with the proposed transfer of functions from Frankford Arsenal in Philadelphia to the Rock Island Arsenal in Illinois. These articles, written by Mr. Levins told of some of the outstanding accomplishments at the Frankford Arsenal over its long history. They also relate the problems which would be faced by the many people who would be affected by this transfer of function.

The last of those articles appeared in Tuesday's issue of the Daily News and is also worthy of reading by the Members of this body. While the Military Establishment may be concerned with efficiency of operation and economies, it seems apparent, to me at least, that the military are too little concerned with the effect that the contemplated move will have upon people who are a most necessary ingredient when considering economies and efficiency.

I insert this article at this point in the RECORD:

[From the Philadelphia Daily News, Jan. 28, 1975]

ROCK ISLAND "TAKES A LOT OF GETTING USED TO"

(By Hoag Levins)

ROCK ISLAND, ILL.—"If you like hog-wallowing and corn-shucking, this is a real fine place to be," said Howard G. Stevenson with a sour grin and a wave of his hand toward the window.

Outside, past a cluster of other Army buildings, the ice-clogged Mississippi River runs past this narrow island arsenal on both sides.

Beyond the river lies the rural, midwestern community where Stevenson has lived with his family since 1973, when the Army Munitions Command moved from the Picatinny, N.J., Arsenal.

Army officials have announced that when Philadelphia's Frankford Arsenal closes in 1977 or before, they intend to offer similar Rock Island transfers to hundreds of Philadelphia workers.

"It's very provincial here and it takes a lot of getting used to," he said. Stevenson, 56, and his family plan to move back to the East Coast when he retires.

"It's not a total wasteland. The local schools are nice for the children, but you don't find the degree of variety of entertainment or shopping facilities that you find back East. There is an altogether different pulse to life here," said Stevenson, assistant information officer.

To get a better feel for that pulse, a visiting Philadelphian took an early-evening walking tour of downtown Rock Island. Along the few blocks that comprise the main shopping district, the storefronts were locked and darkened by nightfall.

At 2d ave. and E. 17th st.—the town's main intersection—8:30 P.M. arrived and found neither traffic nor people in sight. The only sounds were the clicks made by the corner "Don't Walk" signs which flashed down the deserted, snow-dusted streets.

"We got a quiet place here," said a lone passerby when asked where everybody was. "Quiet" seems to sum up the overall atmosphere of this community hugging the east bank of the Mississippi, which cuts a border between Illinois and Iowa.

What transferred Frankford Arsenal workers will find in this part of the country is a way of life vastly different from what they know in metropolitan Philadelphia.

Whether that difference is good or bad depends on one's point of view.

Said Warren Hobson, director of the Rock Island Chamber of Commerce:

"There are two ways to look at it. One of them would be dull, I suppose, but the other would be peaceful. You can get to know your neighbors in a town like this. You can get a chance to relax."

As he talked, Hobson stopped his afternoon tour along 2d ave. and proudly pointed out the newest—and tallest—building in town. The office complex pushed upward nine stories toward the overcast sky about to blanket the region in snow again.

During the winter, Rock Island averages about 30 inches of snow. In January, the U.S. Weather Service reports the average daily high here is 31.6 degrees.

"Hell, this is a warm spell now," said a taxi driver who enjoyed chiding shivering out-of-towners. Laughing, he noted that it was 10 A.M. and the temperature already was up to 18 degrees.

"Around the river with the winds and all, we get chill factors in the minus 10 and 20 pretty regularly," he said.

"The River," always called that by local residents, is the area's most prominent geographical feature. In all directions from Rock Island spread the vast flatlands that are the famed farming "Bread Basket" of America.

Rock Island City is one of 10 villages loosely merged to form an overall community of about 360,000 people. Called the Quad Cities area, each of the 10 communities continues to maintain its separate small-town identity.

"Religious activity is a big part of life around here," said one Rock Islander of the area's 251 churches reflecting 28 faiths. There are, for example, 27 Roman Catholic churches, 43 Baptist, 2 Four Square Gospel churches and 2 synagogues.

Religious belief is reflected in the schools as well. Of the Quad Cities' 127 elementary, and junior and senior high schools, 21 are parochial or private. The largest four-year college in the area is a Lutheran liberal arts school, Augustana, with 2,200 students, in Rock Island.

An important consideration to anyone moving into the area is the quality of health care. In the Quad Cities area there are 131 dentists, 63 physicians, 40 surgeons, 158 specialists, and eight general hospitals with 2,000 beds, in addition to the Army's fully equipped hospital at the arsenal.

Social life also is important, and the church plays an important role. "You have people here who don't have a lot of other social things to get involved in," said a resident, "so they gravitate toward their churches. We've always got pot luck dinners or something going."

The river is the region's recreation center. Marinas line its banks. In the summer, boaters anchor at sandbars in the middle of the river to picnic, drink, fish. However, they don't often eat the fish they catch, or swim much in the water—it's dirty.

Longtime Rock Island residents are sensitive about their stereotypes as "just farmers."

"We're not that much in the backwoods here," said Police Chief Charles Myers. "We have a few topless bars around here. We don't bother them."

"What we don't have is the hustle and bustle of the big city. You don't have a lot of the frustrations of traffic jams. A parking ticket costs you $1 in town—unless you block up a snow route. Then we hit you for $5. It's peaceful here and if you want the big city, well you can jump in the car and run over to Chicago or St. Louis."

Chicago, the nearest major metropolitan area, is 180 miles away. St. Louis is 200.

In downtown Rock Island, there are two movie houses. This week, the Capri Theater is featuring the X-rated "Turkish Delight." The Fort theater shows only XXX-rated films.

There are five major museums around Rock Island. They include the Browning Museum within the Rock Island Arsenal, spotlighting famous guns of the world and the display in the administration building of the John Deere Co. which makes tractors. The Deere display is a review of the history of agriculture.

Said Marshall Hood, a 24-year-old news reporter who recently moved here from Drake University in Iowa's capital of Des Moines:

"It's like a culture shock when you get here. You have people who are mostly factory workers or farmers here. In the summer, they go out on the river, or watch football on TV, or they drink in the neighborhood taps which are big here. That's it."

The two major employers are strongly farm- and factory oriented. One is the Rock Island Arsenal, which employs about 8,000. The other is the farm-equipment industries which employ almost everybody else.

Within a few miles of the arsenal are the factories of Deere, International Harvester, J. I. Case Co., and the Caterpillar Tractor Co. The combined output of these industries makes this region the world's leading producer of heavy farm machinery.

"That has its advantages and disadvantages," explained Lynn Ash, executive editor of Rock Island's Argus newspaper. "Right now we have one of the lowest unemployment rates in the country . . . it's up around 3.6 percent. But all our eggs are in that one basket. If the bottom ever falls out of the farm equipment industry, this area will be destroyed overnight. There's nothing else here."

POSTAL REORGANIZATION ACT AMENDMENTS OF 1975

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HANLEY. Mr. Speaker, today I introduced a bill entitled "Postal Reorganization Act Amendments of 1975." The bill is similar to H.R. 15511 which I introduced last year on which extensive hearings were held by the Postal Service Subcommittee during the final months of the 93d Congress. However, I have made several changes and additions to the bill.

The major thrust of the new legislation is, as it was in H.R. 15511, to provide for authorization of up to 20 percent of the Postal Service's operating budget as an appropriation for the public service aspects of the Postal Service's functions. This appropriation would be in lieu of the current public service appropriation of 10 percent of the 1971 operating budget. This latter appropriation is scheduled to be gradually reduced until it reaches 5 percent in 1984, a virtually insignificant figure. The authorization for an increased public service appropriation would not affect the current permanent authorization for revenue foregone appropriations.

Most of the testimony during our hearings last year supported the concept of increased appropriations, but we received less than universal endorsement of the

annual authorization feature of H.R. 15511. The principal fear on the part of the Postal Service and several major mail users is that annual authorizations would leave the Postal Service revenue needs in sufficient doubt so as to inject unacceptable uncertainty into the ratemaking process. Alternatives suggested include permanent authorization, authorizations for periods of more than 1 year, and permanent authorization for specific public service oriented functions such as delivery service.

I am, at this point, skeptical about any further permanent authorization for Postal Service appropriations. The Postal Reorganization Act of 1970 gave the Postal Service virtually unlimited authority to spend the revenue generated through the sale of stamps, reimbursements for penalty and franked mail, and fees for special services. It also gave permanent authorizations for funds appropriated by Congress. These provisions in effect removed Congress from any meaningful control over Postal Service expenditures.

One purpose of this segment of the legislation, other than the obvious one of providing an additional infusion of capital into the Postal Service to help keep both service and rates at a reasonable level, was to give Congress—through its Post Office and Civil Service Committee—greater leverage when dealing with the difficult questions of postal finance. To permanently authorize additional appropriations would not achieve this goal—even if such authorizations were tied to specific expenditures.

I, therefore, remain committed to a periodic authorization for the purposes of this legislation. However, I agree that annual authorizations could unnecessarily hinder planning and projections, particularly in connection with requests for postal rate adjustments. Therefore, I have included in this bill a provision for biennial authorization of public service appropriations.

As for the necessity for an increased appropriation, I remain convinced that the unique public service provided by the Postal Service benefits all citizens, whether or not they use the mail. Therefore, I think that part of the costs of the Postal Service should be paid out of the General Treasury. As I said last year upon introduction of H.R. 15511:

While alternate means of communication have partially replaced the social and economic functions of the mail, the Postal Service is still the most extensive communication network in the country today.

Throughout the history of our Nation, both the general public and the business community have come to rely on the mail as the means of communication that is most accessible physically and financially, and one that provides efficient service at reasonable costs. Our commerce and industry, our intellectual life and most of our social life would obviously be adversely affected without the mail.

It is unwise to assume that we can continue to believe in the "breakeven" concept that we mandated in the Postal Reorganization Act of 1970. If we continue to follow a hard line on the breakeven concept, postage rates will continue to skyrocket and "noneconomic" but important postal services could become a thing of the past.

Spiraling postal rates have indicated to us that we cannot have efficient postal service at reasonable cost to the user unless we provide funds to the Postal Service to defray its public service costs. I am, therefore, proposing that as reimbursement to the Postal Service for costs incurred by it in providing a maximum degree of effective and consistent postal service nationwide, we provide the means for substantial continuing subsidies. This authorization for each fiscal year would be for an amount up to 20 percent of the total operating expenses of the Postal Service for the immediately preceding fiscal year.

During our hearings and the hearings held by the Investigations Subcommittee of the Post Office and Civil Service Committee, serious questions were raised about the structure and responsiveness of the Postal Service Board of Governors. The feeling is that the Board is too narrowly based and does not fully understand the public service function of the Postal Service.

I feel that we need to reconstitute the Board to encourage broader representation and to reflect the responsibility of Congress to provide adequate mail service. Therefore, I have included in this bill a provision which would abolish the Board as presently constituted and replace it with a Board of nine members, three each appointed by the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate. As with other sections of the bill, I offer this as a proposal for discussion, a proposal which can be subject to change. I hope that, as a minimum, this provision will encourage a meaningful discussion of the role of the Board of Governors.

Another area addressed in this bill is the operations and procedures of the Postal Rate Commission. During the past 2 years, much concern has been expressed about the Commission including the length and complexity of its proceedings, the quality of the Commissioners and staff members, and the cost of full participation by mail users in the ratemaking process. A fundamental, and often unstated, question is whether or not the complicated hearing procedures required by sections 556 and 557 of title 5, United States Code, are really necessary for the setting of postal rates.

After some study of the matter, including informal review of the procedures of other regulatory commissions, I have come to the conclusion that if we are to follow the requirements of sections 556 and 557, long and costly hearings are inevitable. My first approach, included in H.R. 15511, was to grant the Rate Commission complete independence from the Postal Service and make the decisions of the Commission final, thus eliminating the limited review and modification powers of the Board of Governors. At least if long and costly hearings had to be endured, participants could be assured that the results of their work could not be overturned by the Board of Governors, regardless of how remote that possibility might be.

This proposal was viewed with a great deal of skepticism by many witnesses and Members. The skepticism, I believe, stemmed primarily from some questions about the quality of the Commission's work, the qualification of the Commissioners, and the depth of the Commission's knowledge about the operations of the Postal Service.

I have not yet totally abandoned this approach. However, the new legislation contains new language which would keep the Board of Governors' limited powers to accept, reject, or modify a Rate Commission decision. However, the bill removes the requirement that adjudicatory-type hearings be held on rate and classification matters. Instead, the Commission will be required to hold public legislative-type hearings where all parties will be given an opportunity to testify, but where the more complicated facets of adjudicatory hearings such as cross examination and rebuttal would not be required. The Commission would retain the option of holding some proceedings under sections 556 and 557 if circumstances warranted.

The new bill also includes new provisions which give the Rate Commission clearer authority to investigate and study the Postal Service, and which give the Commission the power to represent itself in court cases. Retained are the provisions in H.R. 15511 which required Senate confirmation of Postal Rate Commissioners, provide for the election of a Vice Chairman and an independent budget for the Commission.

In regard to temporary rates, this bill, as did H.R. 15511, double the time required before the Postal Service can institute temporary rates and provides that temporary rates cannot exceed 10 percent of the permanent rate in effect. The bill would also give new authority to the Postal Rate Commission to issue recommended decisions on fees charged by the Postal Service for special services.

Other provisions of the bill include:

Amendments to the Private Express Statutes: These amendments are designed to place into law traditional exclusions from the statutes governing the Postal Service monopoly. The amendments are designed neither to expand nor restrict the current monopoly, but to assure that significant changes in the application of the statutes would be made by changing the law rather than regulations.

H.R. 15511 provided that any change in regulations under the Private Express Statutes be preceded by full adjudicatory hearings under the Administrative Procedures Act. In retrospect, such a procedure seems unduly complicated and, according to a report from the Administrative Conference of the United States undesirable for the type of policy question involved in these particular regulations.

Therefore, in this bill I have instead provided for the same type of less formal hearing process which has been suggested for the Postal Rate Commission.

Application of the Administrative Procedures Act to the Postal Service.

Addition of "the educational, cultural, scientific, and informational value" of mail to the list of criteria for the setting of postal rates.

A requirement that the Postal Service make payments to local governments in lieu of real estate taxes for property

bought but unused by the Postal Service for more than a year. On occasion, the Postal Service, which as a Federal agency does not pay local taxes, will buy a piece of property in a city but not use it for a considerable period of time. Thus, a city is losing significant tax revenues while at the same time not enjoying the benefits of a postal facility. This provision is designed to protect a locality from unreasonable loss of revenue as well as to encourage the Postal Service either to use or dispose of unneeded real estate in a reasonable length of time.

Require that when the Postal Service cancels a star route contract for reasons other than failure to fulfill the terms of the contract it will pay an indemnity equal to one quarter the annualized rate of the contract. Current practice is to pay one-twelfth the annualized rate, which star route contractors claim is virtually confiscatory.

Provide star route contractors an avenue of appeal within the Postal Service. Representatives of star route contractors testified that current contracts severely limit the jurisdiction of the Board of Contract Appeals, particularly with respect to applications for cost adjustments.

Require that the Postal Service give a 45-day notice in the Federal Register of intent to file a rate or classification request.

Give the Postal Rate Commission unquestioned right to conduct inquiries into the operations of the Postal Service.

Give jurisdiction to the Postal Rate Commission over fees charged by the Postal Service for special services such as special delivery, express mail, registered and certified mail.

The Subcommittee on Postal Service will hold hearings on this bill soon after the February recess. I invite the comments and suggestions of my colleagues.

PRESIDENT'S PROPOSED CUTS IN SPENDING FOR HEALTH AND EDUCATION MUST BE REJECTED BY THE CONGRESS

(Mr. DRINAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DRINAN. Mr. Speaker, 1 week ago, on January 23, 1975, I addressed the House on the administration's impoundment of medical research funds in violation of the Budget and Impoundment Control Act of 1974. I chronicled in my statement—page H279—the facts of the case including the enactment of the Labor-HEW appropriation on December 7, 1974, the requirement under the Antideficiency Act that such funds be apportioned by January 6, 1975, and the report to Congress by the Comptroller General on January 10, 1975, stating that such apportionments were not taking place as required.

On January 27, 1975, I wrote to Mr. Leland May, Acting Director of the Division of Financial Management of the National Institutes of Health and to Mr. William M. Nichols, Acting General Counsel of OMB, to express my deep concern over this situation and seek a justification for the administration's illegal action. Copies of these letters follow:

WASHINGTON, D.C.,
January 27, 1975.

Mr. LELAND MAY,
Acting Director, Division of Financial Management, National Institutes of Health, Bethesda, Md.

DEAR MR. MAY: I attach herewith a statement which I made in the Congressional Record on January 23, 1975.

You will note that I have mentioned the conversation which we had on the telephone with respect to the OMB giving orders to the NIH to delete $351,000,000 from the budget of NIH.

Needless to say, I expect to follow up this matter very closely.

I have talked with lawyers at OMB concerning their position that they have the right to diminish spending by the amount of the proposed rescission even before apparently the proposed rescission has been sent to the Congress.

It is my understanding that when the proposed rescissions in the amount of $351,000,000 are sent to Congress, you will already have reduced the level of spending at NIH to a point where the $351,000,000 is not allocated at all.

I would appreciate any further information which you might have on this matter.

I would also be in your debt if you would send to me any and all information about this matter in the weeks to come.

As I think I indicated to you on the telephone, the medical research community in the greater Boston area is very important to the scientific world. I represent a significant number of these people who live in my congressional district.

With every best wish, I am,
Cordially yours,

ROBERT F. DRINAN,
Member of Congress.

WASHINGTON, D.C.,
January 27, 1975.

Mr. WILLIAM M. NICHOLS,
Acting General Counsel, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. NICHOLS: I attach herewith a statement which I made concerning the proposed rescission in the amount of $351,000,000 in the budget of the National Institutes of Health.

I represent a large number of individuals who are engaged in basic medical research in the universities and hospitals in Boston. As a result, I have a direct personal and congressional involvement in this matter.

It may be that you would want to point out any differences of fact or interpretation as you see the important issues treated in the attached statement.

I expect in the immediate future to send a letter to all the Members of the House of Representatives asking them to join me in deploring the incredible proposed slash of $351,000,000 from medical research.

Even if, however, the House refuses to accede to these rescissions, enormous damage will nonetheless be done by the position taken by OMB that it has the right to impound $351,000,000 before and during the period of forty-five days in which the Congress may act on this matter. Actually, the forty-five days amount to fifty-seven calendar days. As a result, OMB, as I understand the facts, will have ordered the impoundment of $351,000,000 of authorized and appropriated money for medical research for at least one hundred days.

Your comments would be most welcome.
Cordially yours,

ROBERT F. DRINAN,
Member of Congress.

I also wrote on January 27 to Chairman GEORGE H. MAHON, of the House Committee on Appropriations, to bring this matter to his attention and urge prompt action by the committee on any forthcoming rescissions in this area. Chairman MAHON graciously responded to my letter on January 28 and promised to pay close attention to proposed rescissions from the budget of NIH. Copies of my exchange of correspondence with Chairman MAHON are as follows:

WASHINGTON, D.C.,
January 27, 1975.

Congressman GEORGE MAHON,
Chairman, Appropriations Committee, House of Representatives, Washington, D.C.

DEAR CHAIRMAN MAHON: I attach herewith a copy of a statement which I made in the Congressional Record on January 23, 1975 with regard to the proposed rescissions amounting to $351,000,000 as proposed by the OMB.

I attach also a copy of my statement to the General Counsel of OMB.

I have been very closely in touch with officials at the NIH as well as the OMB.

I would appreciate as a personal kindness your close attention to this matter. The issues involved in the proposed rescissions are of supreme importance to me since I represent a large group of individuals in greater Boston who are involved in major medical research in the prestigious hospitals and universities of Boston. They are deeply disturbed at the proposed slash of $351,000,000 in basic medical research.

It is my understanding from NIH and OMB that the proposed rescissions will be sent to the Committee on Appropriations around February 1st.

May I ask that when the rescissions and the required message from the President come to you that a copy be delivered to my office at once.

I will want to make this document available to the Dean of the Harvard Medical School and to the highest officials of the Massachusetts General Hospital.

I will appreciate your personal attention to this matter since, to repeat, it is of supreme importance to me to be able to do everything to prevent the rescission of the $351,000,000 in medical research grants.

One last point: if the Appropriations Committee expects to take no action on the proposed rescissions of $351,000,000, is it possible under the Impoundment Act of 1974 for the Committee to make known its intention long before the full forty-five days have expired? If similar action could be obtained from the relevant Committee of the Senate, appropriate action could be taken to compel the NIH to return to that level of funding which has been mandated by the Congress and signed by the President.

I send to you my gratitude for the attention which I know you will pay to the above request.

Cordially yours,

ROBERT F. DRINAN,
Member of Congress.

WASHINGTON, D.C.
January 28, 1975.

Hon. ROBERT F. DRINAN,
House of Representatives, Washington, D.C.

DEAR BOB: I have your letter of January 27 concerning the proposed rescissions of funds from the National Institute of Health. I appreciate your writing me about this and the careful and thorough way you have explored these problems.

As soon as we receive copies of the proposed rescissions, I will make sure that you get

one. I will also give this my close personal attention.

There are some difficulties and unresolved problems in regard to these rescissions and to the Impoundment Control Act of 1974; however, we are certainly going to try to resolve these problems in such a way as to insure that the mandates of the Congress are carried out.

Sincerely,

GEORGE H. MAHON,
Chairman.

Today, after 24 days of illegal impoundment of funds for medical research and other vital domestic programs, the President finally conformed to the statutory requirements of the Impoundment Control Act by submitting a special message to Congress proposing 40 rescissions and 26 deferrals of existing budgetary authority. The President has asked for drastic cuts in numerous programs which serve to educate our citizens and safeguard the public health. The President's proposals strike directly against our most vital priority—the health and welfare of the American people. Some of the most incredible of the funding slashes proposed by the President today are as follows:

1. A reduction of $102.5 million in federal grants to states for the education of the handicapped during the next two years. This constitutes 50% of all such aid and denies funding to an additional 2,200 projects serving 200,000 new students.

2. A cut of $350 million in the various programs of the National Institutes of Health. This includes a slash of $123 million in the programs of the National Cancer Institute to find a cure to that tragic disease. If funds intended for new programs which are being channelled to pay for recent federal pay increases are taken into account, the total reduction in funding for NIH proposed by President Ford amounts to $385 million or 19% of the total NIH budget for fiscal 1975.

3. A reduction of $29.7 million in federal grants to states for maternal and child health. Under this proposal, 38 states would receive less for these vital programs than they did in 1974.

4. A cut of $107.8 million for programs of the Alcohol, Drug Abuse, and Mental Health Administration incuding more than 20% of the funds earmarked for mental health programs and more than 30% of the funds appropriated for alcoholism research and treatment programs.

5. A reduction of $28.3 million in funding for the Health Resources Administration including the elimination of 1,000 National Health Service Scholarships and loans to 4,800 nursing students.

6. The elimination of all funding [$284.7 million] for new medical facilities construction in 1975 and 1976.

7. A cut of $35.9 million in programs for elementary and secondary education along with a cut of $58.3 million in higher education programs.

8. A reduction of $39.7 million in funding for Occupational, Vocational, and Adult Education programs including the elimination of $4.2 million for adult education programs which would support an additional estimated 340,000 persons.

9. A cut of $42.4 million in the Office of Human Development's programs for the Elderly including 25% of the entire nutrition budget which could provide an additional 40,000 to 50,000 meals daily.

10. The elimination of all funding [$12 million] for the Community Service Employment for Older Americans programs which would provide useful, part-time jobs for 2,970 elderly Americans.

As I mentioned earlier, the above list represents only a portion of shocking and unbelievable proposals submitted to the Congress by the President today. At a time when national unemployment is greater than 7 percent, the President proposes to cut back on social services and throw those individuals involved in these necessary programs out of work. If approved by the Congress, these rescissions would strike particularly hard at the State of Massachusetts and my Fourth Congressional District which contain many of the Nation's top health research facilities and a large number of health researchers.

I strongly urge my colleagues on the Appropriations Committee to consider the President's proposals as expeditiously as possible so that Congress can act to restore these vital domestic programs to the level of funding mandated in the Labor-HEW appropriations bill passed overwhelmingly by both Houses of Congress on November 26, 1974, and signed into law by President Ford last December 7. Unfortunately under the Impoundment Control Act enacted in 1974, the administration appears to be able to impound funds affected by the rescissions proposed today for a minimum of 45 days. The 26 proposed deferrals become effective immediately and will remain in effect until either House of Congress passes a resolution of disapproval. Moreover, as demonstrated by the events of the past few weeks, the administration seems capable of ignoring the provisions of the Impoundment Control Act by impounding appropriated funds in the mere expectation that a rescission or deferral proposal is forthcoming. This, in effect, extends the length of time that the administration can impound without regard to congressional action from 45 days to an indeterminate period.

It is apparent from its first few months of operation that the Impoundment Control Act has failed to meet the crucial objective it was designed to fulfill. Under this "landmark legislation," all impoundments by the Executive were presumably made subject to the will of Congress. We have learned, however, that by utilizing all of the "grace periods" recognized by the bill, by evading the provisions of the bill to obtain additional time, and by juggling the terms "deferral" and "rescission" so as to hold Congress at bay for as long as possible, the Executive is able to impound vast amounts of appropriated funds for months and months at a time, without regard to the wishes of a majority of the Congress.

I believe that an extensive reexamination of the Impoundment Control Act is necessary in light of the experiences of the past few months. Procedures must be restructured so that Congress knows of a proposed impoundment and is able to reject it before the flow of funds to Federal, State, and local agencies is shut off. Sanctions must be included in the act so that the Office of Management and Budget is no longer capable of flaunting its provisions and impounding on its own. Members of Congress must be better informed of all actions and proposed actions taken with regard to impoundment so that they can exert pressure on the executive and legislative branches to act in the interests of their constituents. These and other reforms of this act should be among the top priorities of the 94th Congress.

It is not, however, necessary to await a thorough study of the Impoundment Control Act before acting to remedy its most glaring deficiencies. Most important, in my mind, is the power of the Executive under the present act to withhold funds from obligation pending the consideration of a proposed rescission by the Congress. Although experts differ somewhat in interpreting the Impoundment Control Act, they nearly all agree that the Executive can impound with impunity "for 45 days of continuous session of the Congress after the date on which the President's—rescission—message is received by the Congress." If Congress recesses for more than 3 days during the 45-day period, the impoundment can go on for a longer time. Even if Congress rejects a proposed rescission bill during the 45-day period, the obligation of funds is not required until the end of the 45-day period. This directly contradicts the intent of Congress to permit impoundments through rescission only if Congress acts affirmatively to approve such a proposal.

Today I have introduced legislation to amend the Impoundment Control Act to require the obligation of funds affected by a proposed rescission unless and until Congress completes action on a rescission bill. If this amendment were incorporated into the act today, the programs mentioned in the President's rescission messages would continue to be funded at the level of the appropriations bill which is now law. Moneys would be withheld only after Congress had explicitly approved such withholdings by majority vote. Instead, under the act as it currently stands, spending for these programs will be reduced to the levels proposed by the President for at least an additional 45 days. While I am confident that a majority of the House will not approve the President's requests for sharp reductions in spending for health and education, fiscal 1975 may be over before funds to be obligated during the fiscal year are finally released. I urge prompt consideration of my proposed amendment to the Impoundment Control Act and hope that my colleagues will join with me in this continuing struggle to restore constitutional control of the budgetary process to Congress. I insert in the RECORD the text of this legislation for the consideration of my colleagues:

H.R. 2434

A bill to amend the Impoundment Control Act of 1974 to provide that no rescission of budget authority proposed by the President shall take effect unless and until the Congress has passed a bill incorporting such rescission

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1012(a) of the Impoundment Control Act of 1974 is amended by striking out "the President shall transmit" in the matter preceding paragraph (1) and inserting in lieu thereof "the President (before actually effecting such rescission or reservation) shall transmit".

(b) Section 1012 of such Act is amended by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) Rescission Ineffective Prior to Congressional Action.—No rescission of budget authority proposed in such special message shall become effective unless and until the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded; and any part of the budget authority involved which is not specifically rescinded by such bill shall (notwithstanding such action) continue to be available for obligation."

(c) Section 1012(c) of such Act (as redesignated by subsection (b) of this section) is amended—

(1) by inserting "Reserved Budget Authority" after "Make" in the heading;

(2) by striking out "proposed to be rescinded or" each place it appears; and

(3) by striking out "the prescribed 45-day period" and inserting in lieu thereof "the first period of 45 calendar days of continuous session of the Congress after the date on which the message is received by the Congress".

SEC. 2. (a) Section 1011(3) of the Impoundment Control Act of 1974 is amended by striking out all that follows "by the President under section 1012" and inserting in lieu thereof a semicolon.

(b) Section 1011(5) of such Act is amended—

(1) by striking out "the 45-day period referred to in paragraph (3) of this section and in section 1012" each place it appears and inserting in lieu thereof "the 45-day period referred to in section 1012(c); and

(2) by inserting "with respect to a reservation of budget authority" after "during any Congress".

(c) Section 1016 of such Act is amended by inserting ", 1012(c)," after "1012(b)".

SEC. 3. The amendments made by this Act shall apply with respect to special messages transmitted by the President under section 1012 of the Impoundment Control Act of 1974 on and after the date of the enactment of this Act.

DISASTER, FOOD, AND DEVELOPMENT ASSISTANCE BILL

(Mr. ZABLOCKI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ZABLOCKI. Mr. Speaker, I am introducing today, together with cosponsors, Congressmen FRASER, FASCELL, BUCHANAN, HAMILTON, BINGHAM, WINN, and WHALEN, a bill to authorize assistance for famine and disaster relief and reconstruction, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes. The bill is being introduced for purposes of discussion, and not as a finished product. I wish to make clear, therefore, that neither I nor any of the cosponsors are committed to the specific language of the bill as introduced nor to the dollar amounts authorized therein.

CREATION OF A SELECT COMMITTEE ON ENERGY

(Mr. RHODES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RHODES. Mr. Speaker, I have today introduced a resolution to create a Select Committee on Energy. I am pleased that the ranking members from the Committees on Interior, Interstate and Foreign Commerce, Government Operations and Science and Technology, as well as other members of the leadership and colleagues, have joined with me in cosponsoring this legislation.

It is imperative that Congress squarely face the energy problem and deal with the many and varied components of this complex issue as a whole. In order to do this I believe that we need a select committee made up of Members familiar with the different aspects of energy-related legislation. It simply will not suffice for Congress to carve up comprehensive energy legislation into small packages for consideration by separate committees of the House.

We must look at the overall aspects of the energy problem and consider the impact of various proposals on a broad scale. To do this we need a Select Committee on Energy.

I am hopeful that the Rules Committee will see fit to give this proposal prompt and favorable consideration. I also urge the Democratic leadership to support this positive step toward coping with our energy problem by permitting the House to deal effectively with energy legislation in a comprehensive manner.

INTRODUCTION OF A TAX CUT TO STIMULATE THE ECONOMY

(Mr. HARRIS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HARRIS. Mr. Speaker, I have introduced today a bill creating an immediate tax cut to stimulate the economy in the amount of $22.7 billion, combined with a quick elimination of three blatant tax preferences presently enjoyed by the big oil companies and costing the Government $5 billion per year. Thus, the revenue reduction is limited to $17.7 billion. This stimulation to the economy is necessary to bring us out of the recession and put Americans back to work. I feel this figure is in line with the recommendations of both the President and the Democratic leadership. At the same time the method is a step toward better tax equity for low- and middle-income taxpayers.

Under my bill, over 80 percent of the benefits would accrue to those earning less than $20,000 per year. In addition to having a stimulative impact on the economy, this tax cut would compensate for the 22-percent rise in consumer prices since 1972. The tax reductions would be retroactive to January 1, 1975. The impact of lower withholding taxes would be felt immediately. Refunds under the workers' credit section would begin in July.

Mr. Speaker, this bill contains no provision for an increase in the investment tax credit for corporations. Current tax policies provide sufficient incentives if consumers are given the ability to buy through increased purchasing power. Obviously the solution to our recession is also dependent on the Federal Reserve correcting its ill-advised tight-money policies.

This bill is designed to meet an urgent need and to achieve quick enactment. Broader issues concerning national energy policy and tax reform must be dealt with in subsequent legislation.

Later in this Congress, we will consider an excess profits tax on the oil companies who are responsible for a large part of our increased cost of living. We will also want to strengthen the minimum tax on millionaires so that they pay their fair share of taxes.

This bill will eliminate immediately three unwarranted loopholes currently enjoyed by the oil corporations—the percentage depletion allowance, the foreign tax credit, and the option to deduct intangible drilling costs. My reason for hitting these obvious windfall tax preferences now is that I want to send them a message—in the board rooms and in the Cabinet Room. This Congress and this Congressman know that the average working family does not mind making sacrifices for the good of the country. But the big oil companies are going to have to make some sacrifices, too.

Mr. Speaker, the following is a section-by-section analysis of the Emergency Tax Adjustment Act of 1975.

INCREASES IN PERCENTAGE STANDARD DEDUCTION

The standard deduction is raised from the present 15 percent of adjusted gross income—with a maximum of $2,000—to 17 percent of adjusted gross income—with a maximum of $2,500. This will result in a reduction in taxes of $1.2 billion and would benefit middle- and lower-income Americans.

INCREASE IN LOW-INCOME ALLOWANCE AND PERSONAL EXEMPTION

The per capita income tax exemptions are raised from $750 to $900. The minimum standard deduction—known as the low-income allowance—is raised from $1,300 to $1,800. These two provisions would cut taxes by $6.3 and $1.5 billion, respectively.

TAX CREDIT FOR LOW- AND MIDDLE-INCOME WORKERS

A refundable tax credit is established for workers equal to 2 percent of the amount of wages up to a maximum of $14,000. This will help to balance the regressiveness of the payroll tax and provide a temporary tax cut of $13.7 billion during 1975.

OPTION TO TREAT INTANGIBLE DRILLING AND DEVELOPMENT COSTS AS DEDUCTIBLE EXPENSES

So-called "intangible" drilling costs are the fuel costs, labor costs, equipment rentals and repairs which frequently account for 75 percent of the expense of bringing in a new oil or gas well abroad. Under current law, these charges are immediately deducted.

Under the Emergency Tax Adjustment Act, this massive subsidy to the oil industry is terminated.

FOREIGN TAX CREDIT

Under this provision, the foreign tax credit will be eliminated for oil and gas corporations. The royalties and per-barrel charges imposed by OPEC will no longer be "credited" against U.S. in-

come tax liabilities. These costs will be treated as business deductions—the normal cost of doing business—and will increase Federal revenue by nearly $2 billion.

PERCENTAGE DEPLETION ALLOWANCE

This section repeals the percentage depletion allowance on both foreign and domestic oil and gas wells. This allowance has concentrated huge economic power in the hands of a few integrated international oil companies. By closing this loophole, we will add at least $2.9 billion to the Federal Treasury.

The depletion allowance is currently geared to production, not discovery of new wells. But it is the worldwide increase in the price of petroleum products—not special tax preferences to oil companies—which will provide the incentive to produce. Repeal of this and the other preferences will not significantly reduce the incentive to develop new energy.

IMPACT OF THE EMERGENCY TAX ADJUSTMENT ACT OF 1975 ON FAMILY TAX LIABILITY

Adjusted gross income	Present tax payment	Payment under the Harris bill	Percent reduction	Dollar reduction
$5,000	$98	0	100	$98
$10,000	905	$534	40	371
$15,000	1,820	1,226	28	524
$20,000	3,010	2,453	18	557
$25,000	4,380	3,790	13	590
$30,000	6,020	5,346	11	674

Note: These figures based on a family of 4 using standard deductions, filing a joint return, with 1 worker.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS of Illinois (at the request of Mr. MORGAN), for Thursday, January 30, 1975, on account of travel on official business for the Committee on Foreign Affairs.

Mr. DIGGS (at the request of Mr. MORGAN), for Thursday, January 30, 1975, on account of travel on official business for the Committee on Foreign Affairs.

Mr. CHAPPELL (at the request of Mr. O'NEILL), for January 27 through February 3, 1975, on account of serious illness of mother.

Mr. RANDALL, for Monday, February 3, and Tuesday, February 4, 1975, on account of official business, to speak at Missouri State prayer breakfast, Jefferson City, Mo.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. GONZALEZ, for 1 hour, today, and to include extraneous matter.

(The following Members (at the request of Mrs. FENWICK) to revise and extend their remarks and include extraneous material:)

Mr. COHEN, for 15 minutes, today.
Mr. FINDLEY, for 10 minutes, today.
Mr. CONABLE, for 5 minutes, today.

(The following Members (at the request of Mr. BAUCUS) to revise and extend their remarks and include extraneous material:)

Mr. KOCH, for 10 minutes, today.
Mr. FLOOD, for 10 minutes, today.
Mr. DRINAN, for 15 minutes, today.
Mr. VANIK, for 15 minutes, today.
Ms. ABZUG, for 5 minutes, today.
Mr. BINGHAM, for 5 minutes, today.
Mr. DANIELSON, for 10 minutes, today.
Mr. LEGGETT, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BAUCUS) and to include extraneous matter:)

Mr. ROE in two instances.
Mr. PEPPER.
Mr. HAMILTON.
Mr. PATTERSON of California in five instances.
Mr. AMBRO in five instances.
Mr. ANDERSON of California in three instances.
Mr. MCFALL.
Mr. GONZALEZ in three instances.
Mr. TRAXLER.
Mr. FRASER in two instances.
Mr. STARK in three instances.
Mr. DODD.
Mr. ROSENTHAL.
Mr. KOCH in three instances.
Mr. VANIK.
Mr. ADDABBO.
Mr. BRINKLEY.
Mr. WON PAT.
Mr. DOMINICK V. DANIELS.
Mr. ROYBAL.
Mr. BADILLO.
Mr. EVINS of Tennessee.
Mr. OBEY in three instances.
Mr. MITCHELL of Maryland.

(The following Members (at the request of Mrs. FENWICK) and to include extraneous material:)

Mr. VANDER JAGT.
Mr. KELLY in two instances.
Mr. KEMP in two instances.
Mr. RHODES.
Mr. MCCOLLISTER in four instances.
Mr. SPENCE.
Mr. BROYHILL.
Mr. ROUSSELOT.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

A bill and concurrent resolution of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 281. An act to amend the Regional Rail Reorganization Act of 1973 to increase the financial assistance available under section 213 and section 215, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. Con. Res. 6. Concurrent resolution to express pride in the strength and achievements of the Boy Scouts of America as this important youth movement marks its 65th anniversary; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. DANIELSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Friday, January 31, 1975, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

212. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various projects proposed to be undertaken for the Air National Guard, pursuant to 10 U.S.C. 2233a (1); to the Committee on Armed Services.

213. A letter from the vice president and general manager, Chesapeake and Potomac Telephone Co., transmitting a statement of the receipts and expenditures of the company for calendar year 1974, pursuant to 33 Stat. 375; to the Committee on the District of Columbia.

214. A letter from the Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Ingersoll-Rand Research, Inc., Princeton, N.J., for a research project entitled "Technical Proposal for a Novel Remote Controlled High Productivity Coal Mining System," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

215. A letter from the Assistant Secretary of the Interior, transmitting a copy of a proposed contract with the University of Minnesota, Minneapolis, Minn., for a research project entitled "Hybrid Computer System for Optimization of Extraction Procedures in Tabular Coal Deposits," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

216. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting a report of Department of Defense procurement from small and other business firms for July–November 1974, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 1767. A bill to suspend for a 90-day period the authority of the President under section 232 of the Trade Expansion Act of 1962 or any other provision of law to increase tariffs, or to take any other import adjustment action, with respect to petroleum or products derived therefrom; to negate any such action which may be taken by the President after January 15, 1975, and before the beginning of such 90-day period; and for other purposes; with amendment (Rept. No. 94–1). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG (for herself, Mr. ADDABBO, Mr. BRODHEAD, Mr. CARR, Mr. CONYERS, Mr. DANIELSON, Mr. EDWARDS of California, Mr. FLOOD, Mr. HARRINGTON, Mr. HAWKINS, Ms. HOLTZMAN, Mr. LEGGETT, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. NOWAK, Mr. PATTISON of New York, Mr. PEPPER, Mr. RANGEL, Mr. ROSENTHAL, Mr. SIMON, Mr. SOLARZ, Mr. STOKES, Mr. WAXMAN, and Mr. YOUNG of Georgia):

H.R. 2412. A bill to amend the Food Stamp Act of 1964, to insure that the charge to a household for its coupon allotment shall not exceed the level established as of January 1, 1975; to provide that this charge shall in no event exceed 25 percent of the household's income; to guarantee food stamps to recipients of supplemental security income; and for other purposes; to the Committee on Agriculture.

By Mr. ADDABBO:

H.R. 2413. A bill to amend title 38 of the United States Code to make the parents of any person who died in the active military, naval, or air service and whose remains are buried in certain national cemeteries eligible for burial in such national cemeteries; to the Committee on Veterans' Affairs.

By Mr. ASHBROOK:

H.R. 2414. A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree, or order, denying or restricting, as unconstitutional, voluntary prayer in any public school; to the Committee on the Judiciary.

By Mr. BERGLAND (for himself, Mr. FRASER, Mr. KOCH, Mr. PEYSER, Mr. WEAVER, Mr. BEARD of Rhode Island, Mr. EILBERG, Mr. HAWKINS, Mr. JENRETTE, Mr. MCHUGH, Mr. MIKVA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MURPHY of New York, Mr. PEPPER, and Mr. SISK):

H.R. 2415. A bill to amend the Food Stamp Act of 1964; to the Committee on Agriculture.

By Mr. BINGHAM:

H.R. 2416. A bill to amend section 3402 of the Internal Revenue Code of 1954 (relating to income tax collected at source), to provide $20 billion in immediate tax relief by reducing the amount of tax withheld, and for other purposes; to the Committee on Ways and Means.

By Mr. BOWEN:

H.R. 2417. A bill to amend the Internal Revenue Code to encourage the continuation of family farms, and for other purposes; to the Committee on Ways and Means.

By Mr. BROYHILL:

H.R. 2418. A bill to amend the Natural Gas Act; to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Massachusetts:

H.R. 2419. A bill to amend title 38 of the United States Code in order to entitle veterans with service-connected disabilities rated as total to domestic and overseas travel on military aircraft on a space-available basis; to the Committee on Veterans' Affairs.

By Mr. BURKE of Massachusetts (for himself, Mr. BEARD of Rhode Island, Mr. BINGHAM, Mr. BLANCHARD, Mr. BROWN of California, Mrs. BURKE of California, Mrs. COLLINS of Illinois, Mr. CORMAN, Mr. DOMINICK V. DANIELS, Mr. EARLY, Mr. EILBERG, Mr. FORD of Tennessee, Mr. FRASER, Mr. HARKIN, Mr. LEGGETT, Mr. MCCORMACK, Mr. MCKINNEY, Mr. OTTINGER, Mr. PATTEN, Mr. ROSE, Mr. SIMON, Mr. STOKES, Mr. TSONGAS, and Mr. VANIK):

H.R. 2420. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the social security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in social security taxes to reflect the Federal Government's participation in such costs; to the Committee on Ways and Means.

By Mr. COCHRAN:

H.R. 2421. A bill to increase an authorization of appropriations in order to complete the Mission 66 bypass road at Vicksburg, Miss.; to the Committee on Interior and Insular Affairs.

By Mr COHEN (for himself, Mr. BURKE of Massachusetts, Ms. ABZUG, Mr. ADDABBO, Mr. ANDERSON of California, Mr. ANDERSON of Illinois, Mr. BADILLO, Mr. BALDUS, Mr. BEARD of Rhode Island, Mr. BELL, Mr. BEVILL, Mr. BROWN of California, Mr. CARNEY, Mr. CLEVELAND, Mr. CONTE, Mr. CONYERS, Mr. COUGHLIN, Mr. DAVIS, Mr. DRINAN, Mr. DUNCAN of Tennessee, Mr. EILBERG, Mr. FASCELL, Mr. FLOOD, Mr. FORD of Tennessee, and Mr. FRASER):

H.R. 2422. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the elderly and handicapped; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. BURKE of Massachusetts, Mr. GILMAN, Mr. GUDE, Mr. GUYER, Mr. HARRINGTON, Mrs. HECKLER of Massachusetts, Mr. HEINZ, Mr. HINSHAW, Mr. LAGOMARSINO, Mr. MCCLOSKEY, Mr. MICHEL, Mr. MILLER of California, Mr. MOORHEAD of California, Mr. OBEY, Mr. OTTINGER, Mr. PEYSER, Mr. PREYER, Mr. PRITCHARD, Mr. RICHMOND, Mr. RODINO, Mr. ROE, and Mr. ROSENTHAL):

H.R. 2423. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the elderly and handicapped; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. BURKE of Massachusetts, Mr. RYAN, Mr. SARASIN, Mr. SIMON, Mr. SOLARZ, Mrs. SPELLMAN, Mr. STEELMAN, Mr. STUDDS, Mr. TAYLOR of North Carolina, Mr. THONE, Mr. TREEN, Mr. WALSH, Mr. WAXMAN, Mr. CHARLES H. WILSON of California, Mr. CHARLES WILSON of Texas, Mr. WIRTH, Mr. YATRON, Mr. YOUNG of Florida, and Mr. FISH):

H.R. 2424. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the elderly and handicapped; to the Committee on Ways and Means.

By Mr. COLLINS of Texas:

H.R. 2425. A bill to provide that the pay of certain Federal executive and legislative officers for a calendar year shall be reduced or increased, depending upon whether there was Federal budgetary deficit or surplus in the preceding fiscal year; to the Committee on Post Office and Civil Service.

By Mr. DOMINICK V. DANIELS:

H.R. 2426. A bill to amend title II of the Social Security Act to increase the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder, and to revise the method for determining such amount; to the Committee on Ways and Means.

By Mr. DOMINICK V. DANIELS (for himself, Mr. ESCH, Mr. PEYSER, Mr. ASPIN, Mr. BERGLAND, Mr. BRADEMAS, Mr. CARR, Mr. COHEN, Mr. FRASER, Mr. HORTON, Mr. KOCH, Mr. MCHUGH, Mr. MATSUNAGA, Mr. MEZVINSKI, Mr. MOAKLEY, Mr. PATTISON of New York, Mr. PEPPER, Mr. RINALDO, Mr. RISENHOOVER, Mr. ROE, Mr. STUDDS, Mr. WOLFF, Mr. YATRON, Mr. ZEFERETTI, and Mr. DOWNEY):

H.R. 2427. A bill to provide for the development and implementation of programs for youth camp safety; to the Committee on Education and Labor.

By Mr. DANIELSON:

H.R. 2428. A bill to amend title 18, United States Code, to provide that corporations, labor organizations, and certain Government contractors which make unlawful political contributions shall be fined in an amount equal to the amount of such contributions; to the Committee on House Administration.

By Mr. DEVINE:

H.R. 2429. A bill to prohibit, except in cases of extreme emergency, assistance under the Agricultural Trade Development and Assistance Act of 1954 to any country which does not make reasonable and productive efforts, especially with regard to family planning, designed to alleviate the causes of the need for assistance provided under such act; to the Committee on Foreign Affairs.

By Mr. DICKINSON:

H.R. 2430. A bill to amend the Food Stamp Act of 1964 to permit households to use food stamps to purchase seeds, plants and fertilizer from retail stores engaged primarily in the sale of seed and feed; to the Committee on Agriculture.

By Mr. DICKINSON (for himself, Mr. BOWEN, Mr. CLEVELAND, Mr. ESHLEMAN, Mr. FASCELL, Mr. FLOOD, Mr. FLOWERS, Mr. FORD of Tennessee, Mr. GINN, Mr. HAMMERSCHMIDT, Mr. HELSTOSKI, Mr. JEFFORDS, Mr. JOHNSON of California, Mr. JONES of North Carolina, Mr. LEHMAN, Mr. MOLLOHAN, Mr. PEPPER, Mr. PICKLE, Mr. RHODES, Mr. RODINO, Mr. ROE, Mr. RYAN, Mr. WINN, Mr. YOUNG of Alaska, and Mr. ZEFERETTI):

H.R. 2431. A bill to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes; to the Committee on House Administration.

By Mr. DODD:

H.R. 2432. A bill to amend title VIII of the Public Health Service Act to revise and extend the programs of assistance under that title for nurse training and to revise and extend programs of health revenue sharing and health services; to the Committee on Interstate and Foreign Commerce.

By Mr. DRINAN:

H.R. 2433. A bill to substantially reduce the personal dangers and fatalities caused by the criminal and violent behavior of those persons who lawlessly misuse firearms by restricting the availability of such firearms for law enforcement; military purposes; and for certain approved purposes including sporting and recreational uses; to the Committee on the Judiciary.

H.R. 2434. A bill to amend the Impoundment Control Act of 1974 to provide that no rescission of budget authority proposed by the President shall take effect unless and until the Congress has passed a bill incorporating such rescission; to the Committee on Rules.

By Mr. DUNCAN of Tennessee:

H.R. 2435. A bill to amend title 5, United States Code, to provide for the restoration of survivor compensation to any widow or widower who has remarried if such remarriage is later dissolved by death, annulment,

or divorce; to the Committee on Post Office and Civil Service.

By Mr. FINDLEY (for himself, Mr. ZABLOCKI, Mr. HAYS of Ohio, Mr. BROOMFIELD, Mr. NIX, Mr. DU PONT, Mr. ROSENTHAL, Mr. WINN, Mr. BINGHAM, Mr. FRASER, Mr. YATRON, Mr. BUCHANAN, Mr. HARRINGTON, Mr. CHARLES WILSON of Texas, Mr. RIEGLE, Mr. SOLARZ, Mr. BONKER, Mr. PERKINS, Mr. RODINO, Mr. QUIE, Mr. MATSUNAGA, Mr. HORTON, Mr. LATTA, Mr. HELSTOSKI, and Mr. FLOOD):

H.R. 2436. A bill to prevent famine and establish freedom from hunger by increasing world food production through the development of land-grant type universities in agriculturally developing nations; to the Committee on Foreign Affairs.

By Mr. FINDLEY (for himself, Mr. FOLEY, Mr. SEBELIUS, Mr. BERGLAND, Mr. THONE, Mr. BOWEN, Mr. JOHNSON of Colorado, Mr. LITTON, Mr. MADIGAN, Mr. RICHMOND, Mrs. HECKLER of Massachusetts, Mr. WEAVER, Mr. JEFFORDS, Mr. BALDUS, Mr. KREBS, Mr. HARKIN, Mr. MCHUGH, Mr. FITHIAN, Mr. BADILLO, Mrs. CHISHOLM, Mr. FORSYTHE, Mr. FRENZEL, Mr. GUDE, Mr. SIMON, and Mr. O'HARA):

H.R. 2437. A bill to prevent famine and establish freedom from hunger by increasing world food production through the development of land-grant type universities in agriculturally developing nations; to the Committee on Foreign Affairs.

By Mr. FINDLEY (for himself, Mr. BROWN of California, Mr. DERRICK, Mr. CARR, Mr. CLEVELAND, Mr. DELLUMS, Mr. EDWARDS of California, Mr. HALL, Mr. HAYES of Indiana, Miss JORDAN, Mr. LAFALCE, Mr. LEGGETT, Mr. METCALFE, Mr. MILLER of California, Mr. OBEY, Mr. RANGEL of New York, Mr. ROE, Mr. ROYBAL, Mr. SARBANES, Mr. SEIBERLING, Mr. STARK, Mr. WON PAT, Ms. ABZUG, and Mrs. LLOYD of Tennessee):

H.R. 2438. A bill to prevent famine and establish freedom from hunger by increasing world food production through the development of land-grant type universities in agriculturally developing nations; to the Committee on Foreign Affairs.

By Mr. FORSYTHE:

H.R. 2439. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional assistance to small employers; to the Committee on Education and Labor.

H.R. 2440. A bill to provide for protection of franchised dealers in petroleum products; to the Committee on Interstate and Foreign Commerce.

H.R. 2441. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplifications, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. FRASER (for himself, Mr. BIESTER, Mr. BUCHANAN, Mr. DIGGS, Mr. MOFFETT, Mr. HOWE, Mr. VANDER VEEN, Mr. CARR, Mr. WHALEN, and Mr. BEDELL):

H.R. 2442. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome; to the Committee on Foreign Affairs.

By Mr. FUQUA:

H.R. 2443. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials; to the Committee on Government Operations.

H.R. 2444. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HANLEY:

H.R. 2445. A bill to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and Postal Rate Commission, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HARRIS:

H.R. 2446. A bill to amend the Internal Revenue Code of 1954 to reduce individual income taxes and to remove certain tax preferences available to oil and gas producers; to the Committee on Ways and Means.

By Mr. HEINZ (for himself, Mr. TREEN, Mr. FREY, and Mr. ERLENBORN):

H.R. 2447. A bill to establish a National Commission on Regulatory Reform; to the Committee on Interstate and Foreign Commerce.

By Mr. HINSHAW:

H.R. 2448. A bill to reestablish the fiscal integrity of the Government of the United States and its monetary policy, through the establishment of controls with respect to the levels of its revenues and budget outlays, the issuance of money, and the preparation of the budget, and for other purposes; jointly to the Committees on Ways and Means, and Banking, Currency and Housing.

By Ms. HOLTZMAN (for herself, Mr. FOLEY, Mr. RICHMOND, Mr. BINGHAM, Mr. BLANCHARD, Mr. BONKER, Mr. DE LUGO, Mr. DUNCAN of Oregon, Mr. EILBERG, Mr. FISHER, Mr. FLOOD, Mr. GILMAN, Mr. HEINZ, Ms. JORDAN, Mr. MAGUIRE, Mr. OTTINGER, Mr. RYAN, and Mr. SCHEUER):

H.R. 2449. A bill to prohibit increases in the amount required to be paid by households for food stamp allotments; to the Committee on Agriculture.

By Mr. HOWARD:

H.R. 2450. A bill to establish a congressional award program for the purpose of recognizing excellence and leadership among young people; to the Committee on Education and Labor.

H.R. 2451. A bill to prohibit the importation into the United States of commercially produced domestic dog and cat animal products; and to prohibit dog and cat animal products moving in interstate commerce; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. LONG of Maryland (for himself, Mr. ROSE, Mr. BADILLO, and Mr. CHARLES H. WILSON of California):

H.R. 2452. A bill to prohibit the transfer of atomic technology to foreign powers without the express approval of the Congress; to the Joint Committee on Atomic Energy.

By Mr. LONG of Maryland (for himself and Mr. LEGGETT):

H.R. 2453. A bill to amend title 18 of the United States Code to require the consent of all persons whose communications are intercepted under certain provisions relating to certain types of eavesdropping; to the Committee on the Judiciary.

By Mr. LOTT:

H.R. 2454. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

By Mr. McFALL:

H.R. 2455. A bill to amend chapter 79 of title 10, United States Code, to make more feasible the personal appearance of a petitioner before a board authorized to correct discharges and dismissals from the Armed Forces by establishing regional boards of review, and to amend chapter 49 of such title to prohibit the inclusion of certain information on discharge certificates, and for other purposes; to the Committee on Armed Services.

H.R. 2456. A bill to amend title 38, United States Code, to extend the maximum entitlement to educational assistance for eligible veterans and eligible dependents from 36 to 45 months; to the Committee on Veterans' Affairs.

By Mr. MELCHER (for himself, Mr. BAUCUS, Mr. BEDELL, Mr. BROWN of California, Mr. HARKIN, Mr. HIGHTOWER, Mr. JEFFORDS, Mr. JENRETTE, Mr. JONES of North Carolina, and Mr. THONE):

H.R. 2457. A bill to amend the Internal Revenue Code of 1954 to allow farmers to defer certain payments received for losses to crops caused by natural disasters until the taxable year in which the income from the crops would have been reported; to the Committee on Ways and Means.

By Mr. MEZVINSKY:

H.R. 2458. A bill to provide that the Secretary of Agriculture shall offer encouragement, advice, expertise, and other assistance for the purpose of establishing and maintaining farmers' markets designed to lower the cost of food for consumers and increase the income of small farmers; to the Committee on Agriculture.

By Mr. MOLLOHAN (for himself, Mr. BEVILL, Mr. COCHRAN, Mr. DAVIS, Mr. DENT, Mr. DUNCAN of Tennessee, Mr. EDWARDS of Alabama, Mr. FUQUA, Mr. JOHNSON of Pennsylvania, Mr. KEMP, Mr. MELCHER, Mr. MITCHELL of New York, Mr. PERKINS, Mr. TREEN, Mr. CHARLES WILSON of Texas, Mr. WON PAT, and Mr. YATRON):

H.R. 2459. A bill to repeal sections 102 and 202 of the Flood Disaster Protection Act of 1973 which make flood insurance coverage and community participation in the national flood insurance program prerequisites for approval of any financial assistance in a flood hazard area, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. OBEY:

H.R. 2460. A bill to amend the Occupational Safety and Health Act of 1970 to make the Director of the National Institute for Occupational Safety and Health directly responsible to the Assistant Secretary for Health of the Department of Health, Education and Welfare; to the Committee on Education and Labor.

By Mr. PATMAN:

H.R. 2461. A bill to establish a temporary program whereby the Secretary of Agriculture shall provide feed grain for beef cattle at a reduced rate if the parity price of feeder and slaughter calves falls below a specified level; to the Committee on Agriculture.

H.R. 2462. A bill to establish a temporary program whereby the Secretary of Agriculture shall provide feed grain for dairy cattle at a reduced rate if the parity price of milk falls below a specified level; to the Committee on Agriculture.

By Mr. PATTEN:

H.R. 2463. A bill to amend the Natural Gas Act to require that notice of an application for a certificate of convenience and necessity be published in the newspaper; to the Committee on Interstate and Foreign Commerce.

By Mr. PICKLE:

H.R. 2464. A bill to amend the Food Stamp Act of 1964 to prohibit, after January 1, 1975, an increase in the percentage of a household's net income required to be paid for a monthly allotment of food stamps unless the Congress establishes the increase; to the Committee on Agriculture.

By Mr. QUIE:

H.R. 2465. A bill to provide for the regulation of the process by which the people of the United States nominate candidates for President and Vice President; to the Committee on House Administration.

H.R. 2466. A bill to provide a civil penalty for persons owning any vehicles which are

on Federal recreational properties without having any litter bags; to the Committee on Interior and Insular Affairs.

By Mr. RHODES:

H.R. 2467. A bill to amend the Federal Property and Administrative Services Act of 1949, to allow certain child-care institutions to be eligible for donations of surplus property from the Administrator of General Services; to the Committee on Government Operations.

H.R. 2468. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2469. A bill to establish a national cemetery in the State of Arizona; to the Committee on Veterans' Affairs.

By Mr. RHODES (for himself and Mr. STEIGER of Arizona):

H.R. 2470. A bill to amend chapter 53 of title 18 of the United States Code to provide the same penalties for certain crimes against Indians as are provided for those crimes when the victim is a non-Indian; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself and Mr. WHALEN):

H.R. 2471. A bill to amend the Employment Act of 1946 with respect to stability of the general price level; to the Committee on Government Operations.

By Mr. ROE (for himself, Mr. ANDERSON of California, Mr. ASHLEY, Mr. BADILLO, Mr. BROWN of California, Mr. CARNEY, Mr. COTTER, Mr. DRINAN, Mr. EDWARDS of California, Mr. EILBERG, Mr. GUYER, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. HYDE, Mr. MCFALL, Mr. MELCHER, Mr. RONCALIO, Mr. SISK, Mr. SOLARZ, Mr. STEIGER of Arizona, Mr. STUDDS, Mr. THOMPSON, Mr. TRAXLER, Mr. VIGORITO, and Mr. WON PAT):

H.R. 2472. A bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention, and treatment of, and research in Huntington's disease; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. FASCELL, and Mr. SIKES):

H.R. 2473. A bill to protect juvenile and egg-bearing spiny rock lobsters; to the Committee on Merchant Marine and Fisheries.

By Mr. SCHNEEBELI (for himself and Mr. CORMAN):

H.R. 2474. A bill to amend the Internal Revenue Code of 1954 to provide refunds in the case of certain uses of tread rubber, and for other purposes; to the Committee on Ways and Means.

By Mr. SISK (for himself, Mr. KREBS and Mr. MCFALL):

H.R. 2475. A bill to provide price support for milk at not less than 80 percent of the parity price therefor; to the Committee on Agriculture.

By Mr. STOKES:

H.R. 2476. A bill to establish a program providing financial assistance to low- and moderate-income households with regard to utility costs incurred by such households; to the Committee on Interstate and Foreign Commerce.

By Mr. STUCKEY:

H.R. 2477. A bill to amend the Securities Exchange Act of 1934; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ:

H.R. 2478. A bill to suspend for a 90-day period the authority of the President under section 232 of the Trade Expansion Act of 1962 or any other provision of law to increase tariffs, or to take any other import adjustment action, with respect to petroleum or products derived therefrom; to negate any such action which may be taken by the President after January 15, 1975, and before the beginning of such 90-day period; and for other purposes; to the Committee on Ways and Means.

By Mr. TALCOTT:

H.R. 2479. A bill to amend title I of Public Law 874, 81st Congress, to provide financial assistance to local educational agencies for the education of children of migrant agricultural employees; to the Committee on Education and Labor.

H.R. 2480. A bill to amend title 39, United States Code, to require the Postal Service to consult with agencies of State and local governments with respect to the construction of certain Postal Service facilities, to establish hearing procedures with respect to proposals for such construction, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. THORNTON:

H.R. 2481. A bill to amend the Food Stamp Act of 1964 to provide that the elderly shall not be charged more for food stamp allotments than was charged under regulations in effect on January 1, 1975; to the Committee on Agriculture.

By Mr. VANIK (for himslef, Mr. BAUCUS, Mr. BINGHAM, Mr. BLANCHARD, Mr. CARR, Mr. GILMAN, Mr. MOAKLEY, Mr. PATTEN, Mr. REES, and Mr. RINALDO):

H.R. 2482. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit or an income tax deduction for certain expenditures of a taxpayer rel ting to the thermal design of the residence of such taxpayer; to the Committee on Ways and Means.

By Mr. WON PAT (for himself, Mr. DE LUGO, and Mr. BENITEZ):

H.R. 2483. A bill to extend to certain uninsured residents of the United States in Guam, Puerto Rico, and the Virgin Islands the social security benefits normally provided to individuals who have attained age 72 and who fulfill other special conditions; to the Committee on Ways and Means.

By Mr. YATES:

H.R. 2484. A bill to provide that the fiscal year of the United States shall coincide with the calendar year; to the Committee on Government Operations.

H.R. 2485. A bill to incorporate Recovery, Inc., to the Committee on the Judiciary.

H.R. 2486. A bill to encourage increased use of public transit systems by amending the Internal Revenue Code of 1954 to allow a credit against individual income taxes for funds expended by a taxpayer for payment of public transit fares from his or her residence to his or her place of employment and from his or her place of employment to his or her residence; to the Committee on Ways and Means.

H.R. 2487. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to tenants of houses or apartments for their proportionate share of the taxes and interest paid by their landlords; to the Committee on Ways and Means.

H.R. 2488. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

H.R. 2489. A bill to amend the Social Security Act, as amended, to eliminate certain limitations on the use of Federal funds for social service programs; to the Committee on Ways and Means.

H.R. 2490. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a formulary committee, among the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

By Mr. ZABLOCKI:

H.R. 2491. A bill to amend the Internal Revenue Code of 1954 to allow a refundable credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. ZABLOCKI (for himself, Mr. BINGHAM, Mr. BUCHANAN, Mr. FASCELL, Mr. FRASER, Mr. HAMILTON, Mr. WHALEN, and Mr. WINN):

H.R. 2492. A bill to authorize assistance for famine and disaster relief and reconstruction, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes; to the Committee on Foreign Affairs.

By Mr. CLANCY:

H.J. Res. 170. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right of life; to the Committee on the Judiciary.

By Mr. GONZALEZ (for himself, Mr. BELL, Mr. BEVILL, Mr. DAN DANIEL, Mr. DUNCAN of Tennessee, Mr. ESHLEMAN, Mr. HELSTOSKI, Mr. JOHNSON of Colorado, Mr. KAZEN, Mr. LENT, Mr. MAZZOLI, Mr. MITCHELL of Maryland, Mr. NIX, Mr. PATMAN, Mr. PICKLE, Mr. RUNNELS, Mr. STRATTON, and Mr. CHARLES WILSON of Texas):

H.J. Res. 171. Joint resolution to designate February 9 to 15, 1975, as National Vocational Education and National Vocational Industrial Clubs of America (VICA) Week; to the Committee on Post Office and Civil Service.

By Mr. ROYBAL:

H.J. Res. 172. Joint resolution authorizing the President to proclaim September 8 of each year as National Cancer Day; to the Committee on Post Office and Civil Service.

By Mr. ZABLOCKI:

H.J. Res. 173. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

By Mr. ADDABBO:

H. Con. Res. 82. Concurrent resolution against social security ceiling; to the Committee on Ways and Means.

By Mr. ANDERSON of California (for himself, Mr. HECHLER of West Virginia, Mr. TRAXLER, Mr. FISH, Mr. DE LUGO, Mr. FRASER, Mr. SIMON, Mr. SEIBERLING, Mr. CONYERS, Mr. CORMAN, Mr. BROWN of California, Mr. CHARLES H. WILSON of California, Mr. BEARD of Rhode Island, Mrs. LLOYD of Tennessee, Mr. RODINO, Mr. STARK, Mr. DENT, Mr. ROE, Mr. CARNEY, Mr. EILBERG, Mr. HAWKINS, Mrs MINK, Mr. BADILLO, Mr. PEPPER, and Mr. RYAN):

H. Con. Res. 83. Concurrent resolution that an imposition of a ceiling on social security cost-of-living benefit increases not be enacted; to the Committee on Ways and Means.

By Mr. ANDERSON of California (for himself, Mr. FLOOD, Mr. DANIELSON, Mr. CONTE, Mr. FORD of Tennessee, Mr. EDWARDS of California, Mr. GILMAN, Mrs. BURKE of California, Mr. OTTINGER, Mr. MAGUIRE, Mr. SOLARZ, Mr. RANGEL, Mr. BINGHAM, Mr. TSONGAS, Mr. BRODHEAD, Mrs. SPELLMAN, Mr. DODD, Mr. HANNAFORD, Mr. JOHN L. BURTON, Mr. WAXMAN, and Mr. VAN DEERLIN):

H. Con. Res. 84. Concurrent resolution that an imposition of a ceiling on social

security cost-of-living benefit increases not be enacted; to the Committee on Ways and Means.

By Mr. McFALL (for himself, Mr. REUSS, Mr. BRADEMAS, Mrs. BURKE of California, Mr. CARR, Mr. DOWNEY, Mr. HARKIN, Mr. LEVITAS, and Mrs. SCHROEDER):

H. Con. Res. 85. Concurrent resolution to express the sense of the Congress that the President should not impose any tariff or other import restriction on petroleum or petroleum products before April 1, 1975; to the Committee on Ways and Means.

By Mr. SCHNEEBELI (for himself and Mr. FLOOD):

H. Con. Res. 86. Concurrent resolution requesting release of two Ukrainian intellectuals; to the Committee on Foreign Affairs.

By Mr. DRINAN:

H. Res. 119. Resolution disapproving the deferral of budget authority represented by the failure of the President to apportion certain funds to the Departments of Labor and Health, Education, and Welfare; to the Committee on Appropriations.

By Mr. LONG of Maryland (for himself, Mr. HOLLAND, Mr. DINGELL, Mr. JENRETTE, Mr. GIBBONS, Mr. YATRON, Mr. THONE, Mr. HENDERSON, Ms. HOLTZMAN, Mr. REES, Mr. FLORIO, Mr. MOORHEAD of California, Mr. NIX, Mr. AUCOIN, Mr. LAGOMARSINO, Mr. LEGGETT, Mr. CLEVELAND, and Mrs. HECKLER of Massachusetts):

H. Res. 120. Resolution to amend rule X of the Rules of the House of Representatives to establish a permanent Select Committee on Energy; to the Committee on Rules.

By Mr. RHODES:

H. Res. 121. Resolution to establish a select committee of the House to conduct an investigation and study with respect to intelligence activities carried out by or on behalf of the Federal Government; to the Committee on Rules.

H. Res. 122. Resolution to establish a select committee of the House of Representatives to investigate actions necessary to locate Americans reported missing in action while serving as members of the Armed Forces in Southeast Asia during the Vietnam conflict; to the Committee on Rules.

By Mr. RHODES (for himself, Mr. MICHEL, Mr. DEVINE, Mr. MOSHER, Mr. SKUBITZ, Mr. HORTON, Mr. BROYHILL, Mr. STEIGER of Arizona, and Mr. MILLER of Ohio):

H. Res. 123. Resolution to create a Select Committee on Energy; to the Committee on Rules.

By Mr. ULLMAN (for himself and Mr. SCHNEEBELI):

H. Res. 124. Resolution providing funds for the expenses of the Committee on Ways and Means; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota:

H.R. 2493. A bill for the relief of North Central Education Television, Inc., to the Committee on the Judiciary.

By Mr. ASPIN:

H.R. 2494. A bill to provide for the conveyance to the Boy Scouts of certain real property in the Chequamegon National Forest in Wisconsin; to the Committee on Agriculture.

By Mr. BURKE of Massachusetts:

H.R. 2495. A bill for the relief of Miss Malgorzata Kuzniarek Czapowski; to the Committee on the Judiciary.

By Mr. COCHRAN:

H.R. 2496. A bill for the relief of Weathersby Bodbold Carter, Jr., and Richard T. Harriss III; to the Committee on Interior and Insular Affairs.

By Mr. McFALL:

H.R. 2497. A bill to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Co.; to the Committee on Interior and Insular Affairs.

By Mr. PATTEN:

H.R. 2498. A bill for the relief of William J. Erwin; to the Committee on the Judiciary.

H.R. 2499. A bill for the relief of Michael Mazarakis; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 2500. A bill for the relief of Pedro Escobedo-Celaya; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 2501. A bill for the relief of Cmdr. Andrew F. Jensen, U.S. Navy; to the Committee on the Judiciary.

H.R. 2502. A bill for the relief of Peter Olav Mesikepp; to the Committee on the Judiciary.

H.R. 2503. A bill for the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

IS MILITARY JUSTICE JUSTICE?

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. ASPIN. Mr. Speaker, it has been said by many that military justice is frequently not justice at all. In particular, the treatment of officers convicted by courtmartial is considerably better than what is served up to enlisted personnel.

An illustration of this point was recently brought to my attention by retired Chief Master Sergeant of the Air Force Donald L. Harlow, now the director of legislation for the Air Force Sergeants Association. Sergeant Harlow's remarks, which appeared in the association's "Lobby Ledger," follows:

EQUAL JUSTICE FOR ALL

The first paragraph of the Department of Defense "Human Goals" reads as follows:

"Our nation was founded on the principle that the individual has infinite dignity and worth. The Department of Defense, which exists to keep the nation secure and at peace, must always be guided by this principle. In all that we do, we must show respect for the serviceman and civilian employee as a person, recognizing his individual needs, aspirations and capabilities."

One of the most salient points contained in this creed is extracted as follows:

"To make military and civilian service in the Department of Defense a model of equal opportunity for all, regardless of race or creed or national origin . . ."

We believe that equal opportunity most certainly applies to equal consideration and the metering out of military justice under the Uniform Code.

For the past four years, AFSA delegates in attendance at the annual convention have mandated legislation be passed, eliminating the disparity in the application of military justice, as presently contained in Title 10, US Code 858a., Article 58a.

The inequity of punishment, under the Uniform Code of Military Justice (UCMJ), was significantly amplified in the General Court-Martial of Colonel Kehrli. The facts in this case reveal that, while serving as commander of an Air Force unit, operating in a combat zone, Colonel Kehrli not only smoked marijuana cigarettes but also encouraged young enlisted men, under his command, to participate in his unlawful smoking habits. By his conduct, he not only condoned but also blatantly encouraged disobedience of the law concerning the utilization of marijuana.

For such offenses, Colonel Kehrli was sentenced to confinement, at hard labor, for three years and fined $15,000.

There is no automatic reduction provision for officers; thus, after serving the period of confinement, during which time the Colonel retained his rank and received full pay benefits, he was allowed to retire with the rank of colonel, receiving the same pay and benefits, similar to any other colonel retiree.

Had this been an enlisted man or woman, let's say in the grade of chief master sergeant (CMSgt.), convicted of the same offenses, the application of Article 58a. would have prevailed and the individual reduced to the grade of airman basic.

Most assuredly, Article 58a. is patently discriminatory and certainly in violation of the Department of Defense "Human Goals."

Recent GAO and DoD Corrections Council studies have revealed differences between services in the application of Article 58a., and Mr. James P. Goode, Deputy Assistant Secretary for Manpower and Reserve Affairs (Personnel Policy), has directed the Judge Advocate (JA) and personnel to study the differences and come up with recommendations. We are grateful for Mr. Goode's interest and efforts.

In retrospect, we would ask that the differences in application of Article 58a. between the services not be the only consideration. It is more in keeping with our resolution and with the "Human Goals" of the Department of Defense, that the article be revised to the extent that ALL "people", regardless of rank or position of responsibility, be treated the same when it concerns military justice.

It is our position that the higher the grade, rank and degree of responsibility, the greater the punishment should be, based upon the degree of violation of the law(s). Certainly, ignorance of the law is no excuse for violation. On the other hand, those, charged with the responsibility of leadership and in positions to make decisions affecting many people, should receive less compassion when flaunting the basic laws of the land or the principles upon which our military is structured.

To date, AFSA is the only organization publicly exhibiting concern for the inequities contained in the Uniform Code of Military Justice, and we will continue to lead the fight to seek equal justice for all.

VIRGINIA AND THE VOTING RIGHTS ACT OF 1965

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, January 30, 1975

Mr. HARRY F. BYRD, JR. Mr. President, the Richmond News Leader editorial of January 28, 1975, speaks for itself, and I think, for the people of Virginia.

I ask unanimous consent that it be printed in the Extensions of Remarks.

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

VIRGINIA ON THE RACK

So the punishment will go on.

Yesterday the Supreme Court refused to permit Virginia to extract itself from the Voting Rights Act of 1965. Through Attorney General Andrew Miller, Virginia had sought exclusion from the act for good and honest and persuasive reasons:

In the words of Justice William Rehnquist, dissenting from yesterday's decision, "the Court agreed that Virginia had made a *prima facie* case for entitlement to relief. . . ."

In the words of Mr. Miller's brief, during the years immediately prior to passage of the act, the literacy test "had no appreciable effect on voter registration."

Virginia has not used the literacy test since Congress approved the Voting Rights Act.

Virginia has a higher percentage of blacks registered and blacks voting than certain non-Southern states not covered by the provisions of the act.

The U.S. Civil Rights Commission has acknowledged that as far back as 1961, Virginia did not discriminate in its voting practices.

On September 18, the Federal District Court for the District of Columbia, although refusing to grant Virginia relief from the act, commended Virginia for seeking to ensure voting equality.

Yet, the three-judges on the lower court, like the majority on the Supreme Court, ruled that Virginia must continue under the Voting Rights Act in order to purge Virginia of the "effects" of segregationist policies in the past. Which is to say that in matters of voting, as in matters of education, the prevailing argument remains: Virginia must be unrelentingly flogged for conducting itself on the basis of laws repeatedly sustained by the courts, until the courts and the Congress threw those laws out the window.

This is madness. Sheer, utter, unaccountable madness. And if the Justice Department and the Civil Rights Commission have their way in Congress, which they probably will, our fine federal legislators will vote this year to extend the Voting Rights Act for another five or ten years. Virginia and other Southern states covered by the act are to put in still more years of penance.

Mr. Justice Rehnquist, and Chief Justice Warren Burger and Justice Lewis Powell who concurred in his dissent yesterday, deserve high praise for recognizing an indefensible double standard when they see one. Mr. Miller deserves high praise for his efforts in Virginia's behalf. But alas, his efforts have been for naught. Virginia must hang on the rack yet longer.

SOCIAL SECURITY COST-OF-LIVING INCREASE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1975

Mr. PEPPER. Mr. Speaker, I am submitting a House concurrent resolution to disapprove 5-percent ceiling on social security cost-of-living increases, which was proposed in President Ford's state of the Union message on January 13.

The proposal to reduce the July social security cost-of-living adjustment—which is now projected at 8.7 percent—is based on the President's caution that the complexities in our economic system require the Federal Government to show all Americans it practices what it preaches about sacrifice and self-restraint. I concur with the President's caution that we must examine the Federal budget, but I urge that Federal fiscal policy must never result in increasing the poverty that minority groups—especially the elderly—endure because of social, legal, or economic pressure.

Social security provides more than half of the income for nearly all elderly couples and for two-thirds of those older people who live alone. In spite of congressional efforts to improve social security benefits, the average monthly benefit for a widow of a worker is $177; for a retired worker, $181, for a couple, $310. By trying social security benefit raises to increases in the cost of living, Congress, with the administration's strong backing in 1973, took a worthwhile step to upgrade benefits.

Now, just 1 year since the cost-of-living amendment was signed on January 3, 1974, President Ford asks us to step back insofar as the 30 million social security beneficiaries are concerned. Under the projected 8.7-percent cost-of-living increase, the average monthly benefit for retired would rise from $310 to $337. But under the administration's 5 percent ceiling this would amount to $325, or about $12 less per month.

Retired workers would be similarly affected. The average benefits would increase from $186 to $202 a month under present projections. Under the administration's cutback, their monthly payments would be $195 or $7 less each month under the administrations proposal. Aged widows would receive, on the average, about $7 less per month.

Since the Great Depression in the 1930's, legislation providing for social security benefits, income safeguards, and unemployment cushions has been enacted and these benefits have been built into our economy and must be preserved especially in times of economic stress. The social security program was designed to be self-financing, but economic and social changes in our society which have enriched so many Americans but which also have perpetuated the poverty of others, now require consideration of legislation which I have sponsored to fund some social security benefits out of general revenues. The Social Security Advisory Council recently has proposed financing medicare benefits out of general revenues to relieve the regressive impact of the social security tax on both workers and employers.

Mr. Speaker, this social security cost-of-living increase will cost $2.6 billion. I urge we compare the cost of this increase with the President's defense budget which I understand may provide for a recordbreaking $103 billion—or nearly $18 billion above this year's estimated outlays. Let us consider tighter spending controls but at the same time, recognize the impact of this proposed control on the health and welfare of our Nation's citizens who are too old or too handicapped to demonstrate any more sacrifice and self-restraint than inflation already has imposed upon them. Such a recognition can lead us only to the conclusion that this proposal is indefensible.

MONEY TO BURN

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. SPENCE. Mr. Speaker, periodically there appears in the press or elsewhere, lists containing examples of exotic and seemingly wasteful Federal spending. Having used these same items in the course of countless speeches to dramatize the need for reduced Government spending, I have an especially strong familiarity with the projects included in these lists.

The value of listing these projects is that they direct the attention of Congress, and of the American people, to a serious shortcoming of government; that is, its tendency to waste their money. As President Coolidge said:

> Nothing is easier than spending public money. It does not appear to belong to anybody. The temptation is overwhelming to bestow it on somebody.

My hope is that the periodic reprinting of these particular Government programs will arouse enough citizens to the extent that they will contact Congress to complain. Then, perhaps more of my colleagues would be willing to risk the ire of special interests by saying "no" to frivolous Government programs. As one who has opposed well over $100 billion worth of Government spending, often to the displeasure of potential beneficiaries, I would certainly welcome such a development.

In the near future, I intend to reintroduce my resolution calling for a constitutional amendment which would guarantee a balanced Federal budget each year. The State of South Carolina has successfully operated under such a provision for many years, and I see no reason why the Federal Government cannot do likewise. It is possible that "outrageous expenditure lists" will also

encourage prompt consideration of my resolution.

For the reasons stated, I am asking that a list of questionable projects funded by the Federal Government be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks. This one was compiled by one of South Carolina's most popular columnists, Mr. Bill McDonald, whose article appears in the State newspaper on January 24, 1975.

Of course, as my colleagues will recognize, we were never asked to approve or disapprove any of the individual projects in the list which follows. We are presented with an overall budget from a Government agency, and we are asked to vote either for or against the appropriation. There are no line item requests for $37,314 for a potato chip machine in Morocco, for example; nor are we asked for an $85,000 grant to learn about the cultural, economic, and social impact of rural road construction in Poland.

Obviously, a thorough congressional reexamination of the appropriations process, coupled with a critical look at the overall programs which spawn these questionable projects, is called for. Also, Congress must do a better job of auditing the agencies of Government, and keeping track of the money they receive from the American taxpayer. To this end, I have asked the General Accounting Office to make a full investigation of the items in question, and make appropriate recommendations to Congress.

I am convinced that these efforts would result in substantial savings, which could even be sufficient to balance the budget. Certainly, the taxpayer would be saved many times the cost of the projects mentioned in the following article by Mr. McDonald:

MONEY TO BURN

(By Bill McDonald)

I am not an orator, but if I were in Washington at this troubled hour, I would stand up in Congress and say something like, "Okay, fellows, we're feeling the pinch back home—now you wear the shoes."

I would slam the gavel. I would raise my voice. I would do a repeat of the Mr. Smith-goes-to-Washington act.

Why? (Why indeed!) A glance at the spending habit of Uncle Sam—as gleaned from the Congressional Record—should tell you. Your tax burden is greater, Mr. Citizen, because of—

$375,000 spent by the Pentagon to study the frisbee.

$121,000 to find out why people say "ain't."

$70,000 to study the smell of the perspiration given off by Australian aborigines.

$28,361 for odor-measuring machine for above project.

$17,000 for a dry-cleaning plant to spruce up the djellabas of the Bedouins.

$37,314 for a potato chip machine for the Moroccans.

$117,250 wages for Board of Tea Tasters.

$68,000 paid to Queen of England for not planting cotton on her plantation in Mississippi.

$14,000 to Ford Motor Co. for not planting wheat.

$2 million to Yugoslavia's Marshal Tito for purchase of a yacht.

$31,650 for Speaker of the House Carl Albert's new carpet; $21,000 for his new draperies; $44,000 for his chandeliers; $65,000 for other furnishings.

$80,000 for a zero gravity toilet for the space program.

$23,000 for environmental testing of the same.

$6,000 to study Polish bisexual frogs.

$85,000 to learn about the "cultural, economic and social impact of rural road construction in Poland."

$20,000 to study the blood groups of Polish Zlotnika pigs.

$5,000 to learn about Yugoslavian intertidal hermit crabs.

$5,000 to tabulate the difference between native American and Indian whistling ducks.

$20,000 to investigate the German cockroach.

$71,000 to compile the history of comic books.

$5,000 for the analysis of violin varnish.

$15,000 to find out how fishing boat crewmen cause conflicts in Yugoslavian peasant towns.

$5,500 paid to the genius who wrote the poem "lighght". (That is not the title of the poem, it is the whole poem.) The whole thing comes to seven letters worth $714.28 each.

$19,300 to Health, Education, and Welfare Department to find out why children fall off tricycles.

$2,458 to train 18 Good Humor peddlers.

(Just clip and mail to your favorite Congressman.)

RAYMOND CLARK HONORED

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. STARK. Mr. Speaker, I am honored to have the opportunity to bring to my colleagues' attention Officer Raymond Clark of the Oakland, Calif., Police Department. On January 29, Ray Clark's friends, family and associates will gather to pay tribute to his long participation and fruitful work in the Oakland Black Officers Association.

Raymond Clark's work in the Oakland Black Officers Association marks him as one of this organization's most valuable members. He drafted and articulated the current, OBOA, organizational outline, wrote the current by-laws and article of incorporation for them, as well as delivered the by-laws to Sacramento to become chartered. In addition, Ray Clark has written a thoughtful history of OBOA.

Ray Clark has participated in many attempts to bridge the gap between the community and the police department. These range from attendance at numerous community meetings to discuss the problem all the way to television and radio appearances. Clark coordinated the first police sponsored picnic for the community poor people now held in Oakland. His participation resulted in a proposal for a "community relations program" within the police department which has been submitted to the chief of police.

Raymond Clark has displayed great concern for black activism through his spirited involvement in the NAACP. He is a board member of that organization and established the first liaisonship with the NAACP Lifetime Membership Club. Additionally, Ray Clark was invaluable in bringing to light the inadequate training and racial discrimination unfortunately present in too many of our police departments.

Officer Clark has proven himself a champion in the causes of sound policing and nondiscrimination. Those listed are only a few of his many activities and successes, and they serve admirably to underline the fact that Ray Clark has been and continues to be a unique asset to the Oakland Black Officer's Association of the city of Oakland. I am sure you join me in adding praise and respect to that of those who will gather to honor Officer Raymond Clark on January 29, 1975.

LEE HAMILTON'S WASHINGTON REPORT ENTITLED, "BUREAUCRACY AND CONGRESSIONAL OVERSIGHT"

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

BUREAUCRACY AND CONGRESSIONAL OVERSIGHT

It has been 20 years since the United States Congress took a hard look at the internal revenue code. It has been just as long since it reviewed in detail the Social Security system.

These two examples illustrate the single greatest weakness in the Congressional system: the failure of the Congress to exercise adequately its oversight functions. The fact is that the Congress simply does not give serious thought to how a federal program, once enacted, or a federal agency, once established, ought to be monitored.

Frequently I encounter constituents who, sensing the growing power of the executive branch of government, complain about the evils of government bureaucracy. They point out the many kinds of bureaucratic regulations dealing with taxes, health, safety, working conditions, welfare, and virtually every facet of modern life. They see the bureaucracy as a demanding giant, growing in power, unchecked, even uncontrollable, and interfering with the way they want to do things.

No one imagines that the task of checking the federal bureaucracy will be easy. There are 12 departments and about 55 independent agencies, administering hundreds of programs. The bureaucracy numbers about 3 million people, administers a budget of over $300 billion and enforces laws that fill volumes. No one would expect such a vast complex to run as efficiently as the corner grocery store, but even making allowances, there is still too much inertia, unresponsiveness, mismanagement, and corruption of power.

Major attention must be given by the Congress to strengthening its oversight of the federal bureaucracy with particular emphasis on performance review and evaluation. Without such review the power of the Congress will continue to diminish.

Few functions of the Congress under our Constitutional system are more important than keeping an eye on the executive. Laws

must be carried out by the executive responsibly and in accordance with the intent of the Congress. As every President acknowledges, he simply cannot fully control the bureaucracy. Through the appropriations process, the enactment of legislation, committee investigations, advice and consent on appointments and treaties, informal discussion, and its review of the executive budget, the Congress seeks to improve and support the Executive branch of government. The Congress is in close contact with the people and it shares their interests. If the Congress does not bring the bureaucracy to account, it is not doing its job.

By exercise of its oversight function the Congress signals bureaucrats how the law is to be administered. Since most laws do not settle all policy issues and leave broad discretionary authority to the administrator, the Congress should aid the administrator in understanding the intent of the law.

There is some good news to report. Under recently enacted House reforms, the Government Operations Committee will check with all Congressional committees at the beginning of each session to determine what oversight inquiries they plan to make. Sixty days after the Congress begins, the Government Operations Committee is to make a public report of the oversight agenda. The importance of this reform is that it is a clear assignment of responsibility for oversight. Another reform requires that each Committee set up a subcommittee with oversight responsibility.

Still other steps need to be taken. Reductions in the size of the bureaucracy can be helpful in some instances. So can a requirement that the bureaucracy do its business in public. Regulatory agencies such as the FPC, the ICC, and the FCC, must be scrutinized more carefully, breaking up their pattern of protecting the very industries they were created to regulate. Close relationships of key Congressmen, usually committee and subcommittee chairmen and ranking members, with particular executive departments or agencies need to be broken up. Making the Congress less dependent upon the executive for its information will enable the Congress to form its own judgments, produce new ideas and specific recommendations. Congress can also reduce the power of bureaucracy by using general revenue sharing and block grants, rather than categorical grants. And Congress can revise the civil service system to allow top level managers the flexibility and the authority to manage. Most important of all, of course, is the vigorous use of Congressional hearings to ask tough questions and to publicize the performance of the bureaucracy, and the use of the federal budget to demand compliance with Congressional intent.

If an effective job of Congressional oversight is done, Congressmen will have less difficulty explaining to constituents why needed and obvious improvements are not made in Medicare, Medicaid, the tax code, and welfare programs, and why, when action is taken, it is often only patchwork, and not a comprehensive review of the whole program.

Reform is in the air for the Congress. One standard to judge the effectiveness of these reforms will be whether they produce systematic procedures in the Congress to determine if laws are administered and implemented as the Congress intended. The goal is a bureaucracy that acts vigorously in the public interest, open for all to see, and responsive to Congressional and public scrutiny.

VOLUNTARY SCHOOL PRAYER LEGISLATION INTRODUCED

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. ASHBROOK. Mr. Speaker, in 1962 the U.S. Supreme Court ruled that it was unconstitutional for a State to allow public schoolchildren to recite a nondenominational prayer. Although more than a decade has passed since this outrageous decision, the Congress has failed to enact corrective legislation.

In the past I have tried to reverse the Court's action by introducing a constitutional amendment. My amendment provides in part that the Constitution shall not be interpreted to prohibit the offering, reading from, or listening to prayers or biblical scriptures, if participation therein is on a voluntary basis, in any governmental or public school institution.

The prayer amendment has received a simple majority vote. Unfortunately, however, it has never received the two-thirds vote of Congress that is required for amendments to the Constitution.

To avoid this road block I have introduced legislation that will restore voluntary prayer in public schools without a constitutional amendment. My bill would withdraw appellate jurisdiction from the U.S. Supreme Court in the area of voluntary school prayer. This would mean that each State could set its own standards regarding school prayer. The Supreme Court could not intervene and override a State's decision.

The action I am proposing is both constitutional and effective. The Constitution grants Congress the right to restrict the Supreme Court in those areas where the Court does not have original jurisdiction. For passage, such legislation would be treated as any other piece of legislation and would require a simple majority vote of Congress to be enacted. The two-thirds vote roadblock will be avoided.

I urge the 94th Congress to move immediately toward restoring voluntary school prayer. Our Nation has already waited long enough for Congress to act.

GILMAN PAYS TRIBUTE TO OFFICER SCALA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. GILMAN. Mr. Speaker, in the past week, my congressional district has suffered a tragic loss in the murder of John Scala, an officer of the New York Police Department and a long-time resident of the village of Blauvelt, N.Y.

Officer Scala had served 20 distinguished years on the New York City Police Force, and was preparing for his retirement. Having enjoyed a retirement party in his honor only 2 weeks ago, he was on terminal leave, working as a security guard at St. Luke's Hospital in New York City, when he was shot to death.

Officer Scala chose as his life's work one of the most difficult, challenging professions in our society: that of the police officer. He was the embodiment of the law, the foundation of our social structure. He admirably fulfilled the responsibilities of his difficult, thankless job, and when it was nearly over—when he was on the verge of his well-earned retirement—it claimed his life.

The entire community shares the grief of Mrs. Scala and her children. But from John Scala's life we can also take renewed inspiration and dedication to the cause of law and order for which he gave so much.

We owe an immense debt to our police officers, a debt we can never fully repay. Perhaps the best way in which we can repay this debt is to create a society we all seek—a society in which the goals and principles of our valiant police officers are everyday reality, and in which all men and women will respect our laws, living together in harmony and peace.

We can also fulfill our obligation to the families of these brave men who daily risk their lives in the preservation of peace and public safety. I will shortly be reintroducing a measure I was proud to cosponsor last session, providing for a Federal payment of $50,000 to the survivors of a policeman or a fire officer who is killed in the line of duty. This bill will immeasurably help to meet the financial needs of the survivors, who are so often faced with burdensome financial problems in their time of bereavement.

This is the only one small way in which we, as a Nation, can say to our police officers that we are proud of them, and grateful for the job they do so well.

TRIBUTE TO RICHARD ROWIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. ANDERSON of California. Mr. Speaker, on February 13, the many friends and associates of Dick Rowin will honor him with a dinner-dance to be held at the Yugoslav Hall in San Pedro, Calif.

Born in Oregon, Dick's family moved to San Pedro when he was still a child. He attended the local public schools, including Narbonne High School.

Meanwhile, on October 1, 1942, Dick registered as a longshoreman, and was an active member of the International Longshoremen and Warehousemen's Union, Local 13, in San Pedro.

After service in the Armed Forces during World War II, Dick returned to San Pedro and the docks. Then, in recognition of his work on behalf of his fellow

union members, he was elected welfare officer, vice president of local 13 in April 1956. Over those years, Dick gave his every effort and his enormous talents representing insured members of the local before Federal and State industrial commissioners and the Social Security Administration. In addition, Dick Rowin served as a trustee of the union pension and welfare benefit fund. Ill health forced his recent retirement from his active and beneficial role with the union.

Dick is also a loving husband and father. He and his wife, Rose, are the proud parents of six children: Vivian, Kathleen, Sandra, Victoria, Richard, and Walter.

Mr. Speaker, it gives me great pleasure to join with Dick Rowin's many friends and admirers in paying tribute to this man and his life-long service on behalf of his fellowmen which he has performed.

THE COAST GUARD SCUTTLES ITS OWN REFORMS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. OBEY. Mr. Speaker, back in 1972, Rogers Morton pledged in testimony before the Joint Economic Committee that "newly constructed American-flag vessels carrying oil from Port Valdez to U.S. ports will be required to have segregated ballast systems, incorporating a double bottom."

But National Observer writer-columnist Jamest M. Perry has found that would not be the case at all. Writes Perry:

We've been had . . . again. The controversial Alaskan pipeline was approved by Congress partly because Secretary Morton promised the Alaska ships would have these important safeguards. They won't.

I think Perry's column of analysis and opinion from the February 1 issue of the National Observer is frank, informative and disturbing. The column follows:

COAST GUARD SCUTTLES ITS OWN REFORMS

(By James M. Perry)

The most spectacular boat ride I've ever taken was aboard a ferry running between Victoria, on Vancouver Island, in British Columbia, and Port Angeles, on the Olympic peninsula, in the state of Washington. The sea gulls glide with the boat, at the same speed, so you think you can reach out and touch them. And straight ahead, looking like a giant mural, is the peninsula itself, the jagged peaks of Mt. Olympus and Mt. Angeles reaching into the clouds.

It's a solid old ferry, and it's been plying these cold, windy waters for years. Soon, though, new ships will be using Juan de Fuca, big, 100,000-ton tankers abrim with crude oil from Valdez, in Alaska. They'll come up the narrow strait, plowing through heavy rip tides and weathering high winds, turn to port, and head for docking facilities near Bellingham.

When you think of that, you can't help but think what would happen to this indescribably beautiful part of the world if one of these giant ships went aground, or collided with another ship, or lost power and began to drift. These ships carry just as much oil as the Torrey Canyon, which ran aground off the English coast and created the worst oil spill in history.

The Torrey Canyon flew a Liberian flag and her captain was a tubercular Italian who hadn't been on land for 366 days. The ships that will carry the oil from Alaska to the state of Washington (and to southern California) will carry the American flag, because the law requires that all tankers in the domestic trade (plying between one American port and another) must be American.

Thus, it would seem, this country should be able to maintain some meaningful control over its own ships operating in its own waters, especially the big new tankers that are being built for the Alaska trade.

NEW REGULATIONS

In fact, Congress specifically instructed the Coast Guard to come up with new regulations for domestic tankers. At the time, observers were hopeful that progress would be made, because it was the Coast Guard that pioneered the idea of segregated ballast and double bottoms for all tankers, domestic and foreign.

A little background.

In 1969 and 1970, according to Joseph D. Porricelli and Virgil F. Keith, who know more about these things than almost anyone else, the average annual amount of oil pollution of the ocean from all sources was 4,897,000 metric tons, of which 2,307,000 metric tons came from ships and barges. Tankers, one way or another, spilled 1,450,000 metric tons, of which 967,000 metric tons came from "routine tanker operations and the ballasting and cleaning of cargo oil tanks."

It works this way. After a tanker unloads its oil, it takes on seawater as ballast, to make sure, among other things, that the propeller gets down into the water. For years, the usual procedure was to put the seawater ballast in the same tanks that had carried the oil.

"CLINGAGE" PROBLEMS

Before it takes on more oil, the tanker empties out the seawater ballast. But the seawater mixes with oil that clings to the walls and the bottom of the tanks. Sometimes, this "clingage" amounts to 2 per cent of the oil carried by the tanker. Figure it out: On a ship carrying 200,000 tons of oil, that's 4,000 tons, a hell of a lot of oil. Most big tankers, these days, have an improved system called LOT, for "load on top," in which the oil residue and the ballast are pumped into a holding tank and the mixture is allowed to settle. The water is then drawn off from the bottom and dumped into the ocean. The oil remaining in the holding tank is combined with the next oil cargo. LOT is an improvement, but it's not a solution, because it's only about 80 per cent effective.

The solution is a segregated-ballast system, in which certain tanks always carry oil, certain other tanks always carry ballast, and the twain shall never meet. Ships with double bottoms can use the space between the outer shell and the inner shell for segregated ballast. The double bottom serves another purpose: It can often prevent big oil spills when the ship runs aground. Coast Guard Commander James C. Card analyzed 30 tanker accidents in American waters between 1969 and 1973 in which pollution occurred. If those 30 ships had been fitted with double bottoms (and none were), 27 of them would not have polluted. A total oil spill of 11,000 tons would have been prevented in close-to-shore American waters.

Collisions and rammings (a collision is when you hit another ship, a ramming is when you run into a bridge or something) are major pollution sources too, and double bottoms would help with them. Double *hulls* and double bottoms would be even better.

There are other problems. These big tankers don't maneuver very well. They have one boiler, one shaft, one propeller, and when they're moving along at top speed (about 16 knots for most of them) it takes three miles and 20 minutes to bring them to a stop. You can maneuver better, in harbor and at sea, in a ship equipped with lateral thrusters and a controllable-pitch propeller, both long in service on many tankers. This equipment, Eldon V. C. Greenberg of the Center for Law and Social Policy notes, has "particular benefits" for our tankers operating in our coastal and harbor waterways. A controllable-pitch propeller, for example, can provide a 25 per cent reduction in straight-line stopping distance. This capability, Greenberg says, dryly, "might also prove useful on tankers loaded with Alaskan oil navigating the treacherous Straits of Juan de Fuca."

Well, so much for the background. These are just some of the problems the Congress wanted the Coast Guard to deal with in its new regulations. Now we come to the point of inquiring what these regulations will provide. Remember, first, that it was the Coast Guard that pioneered in demanding many of these reforms, including double bottoms (a call that fell on deaf ears at the international maritime convention in London in 1973).

The Coast Guard gave advance notice of its new regulations on June 28, 1974, just two days before it was required to issue its *final* regulations. To the consternation of environmentalists, the new regulations said nothing about a segregated ballast—double bottom standard; said nothing, either, about thrusters and controllable-pitch propellers. In fact, the Coast Guard broke no new ground; it merely went along with the regulations approved by the Liberians and the Greeks and all the rest at London and made those international regulations applicable to our domestic trade in our own ships.

The point of giving advance notice is to give people and organizations affected by the proposed regulations time to challenge them or to suggest changes in them. The Coast Guard got a heavy response, most of it negative. The White House's Council on Environmental Quality said it was "keenly disappointed." The governor of Alaska "strongly urged" the Coast Guard to reconsider. The governor of the state of Washington objected, and Rogers Morton, the Secretary of the Interior, said the failure to require double bottoms was a "serious error which may adversely affect the environment of Alaska, Canada, the northwestern United States and, indirectly, the entire world for decades to come."

It was the same Rogers Morton who solemnly pledged, in testimony before the Joint Economic Committee on June 22, 1972, that "newly constructed American-flag vessels carrying oil from Port Valdez to United States ports will be required to have segregated ballast systems, incorporating a double bottom. . . ."

The Coast Guard has considered all these replies—and it's going to hold firm. Rear Adm. W. M. Benkert, chief of the Office of Merchant Marine Safety, told me last week that the final rules will be issued in a month's time and that "they will not require segregated ballast and double bottoms in new tankers." Nor, he said, will the new rules require thrusters or controllable-pitch propellers, although the preamble will say the Coast Guard is looking into them.

"We collected new data," the admiral said, "and we changed our mind. We don't think groundings are as serious a problem as we once thought, and we determined that the economics of double bottoms militate against them. They cost a hell of a lot more money."

What the Coast Guard will require is that tankers of 70,000 tons or more laid down or ordered prior to the end of 1974 be built with segregated ballast systems (along with or without, double bottoms). That won't do much for the tankers now being built, because they meet the deadline easily. Beyond that, there's a "grandfather clause" that excuses older tankers from the new regulations.

The American-flag fleet of oil tankers is one of the oldest in the world, and all but a handful are way under 70,000 tons. There's no cut-off date for these old rust buckets (though that, too, is under "consideration" by the Coast Guard) so they'll continue to ply our waterways, spilling and dumping oil every hour, every day, for years and years.

We've been had . . . again. The controversial Alaskan pipeline was approved by Congress partly because Secretary Morton promised the Alaska ships would have these important safeguards. They won't.

Even some of the oil companies have been had. Acting in good faith and in full expectation that the new regulations would require double bottoms, they willingly paid the premium in ordering up 20 new double-bottom tankers.

Thus it is that our tankers operating in our waters under our laws will be no better and no safer (by law, anyway) than an old World War II tanker that might be flying a Liberian flag of convenience and might, right now, be working its way up the coast of Malaysia with a crew of Lascars.

"Sure," says Admiral Benkert, "we've taken a lot of political pressure on this, both pro and con. Everybody has a right to make a pitch. It's our job to appraise the pitches and come up with the right answers."

This time, though, the Coast Guard wasn't ready.

ECONOMIC CRISIS

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. BRINKLEY. Mr. Speaker, more and more of my mail in the past several weeks has been dedicated to the worsening state of the American economy. People are truly becoming concerned that the present crisis is more than temporary, and will lead to a very definite change in the American standard of living.

At the same time, it has become crystal clear to me that a great portion of the blame must be laid to deficit Federal spending, and that we must begin now to reverse this dangerous trend.

Mr. Speaker, I insert at this point of the RECORD a statement which I drafted to be used at the opening of my monthly news conference in my district. I urge all my colleagues to read it carefully and consider the points I raise.

The statement follows:

COMMENTS BY CONGRESSMAN JACK BRINKLEY AT OPENING OF NEWS CONFERENCE IN COLUMBUS, GA., JANUARY 31, 1975

It has become increasingly apparent these last weeks and months that the American public is growing weary of bold statements and stern warnings from those in public office, too seldom followed up with action. Whether you or I or anyone cares to admit it or not, the nation is in dire trouble, and the basis of this trouble is economic in nature. I am convinced now more than ever before that the crisis we now are in is more than simply another period of recession, such as those we frequently hear references to in the 1950s and 60s.

I submit, in fact, that this crisis is the true crossroads in America's great life. The path we take from here on will determine whether, in the future, we again head up or begin a downward slide from which we cannot and will not fully recover.

It is easy to blame the economic crisis entirely on the petroleum problem, or on wage demands, or on wasteful spending by American consumers, but I have to say that such thinking, in which all of us have engaged from time to time, is ludicrous, especially when one looks at the very poor example that the government itself has set. A review of the spending habits of the past two decades clearly shows that the federal government has been as wasteful as, indeed more wasteful than, any consumer could possibly be.

The Congress—under the Great Society and new federalism to a very substantial extent—has simply overspent to the point where we must now make some hard decisions. Either we continue to live beyond our means, to overspend, and cause federal dificits to soar to unprecedented peacetime levels; or we cut back now, as difficult as such a move may be and as much as it might cause hardship. It has been far too easy, up to now, for the Congress to vote, vote, vote on every spending proposal that comes along—simply because such proposals are politically popular or guarantee that we satisfy everybody.

But do you realize that if the federal government stays in its current routine of *wealth distribution* and *transfer payments*, by the turn of the century, we will not only be well along the road to socialism, but will be socialist, for all practical purposes? It is conservatively projected that if current levels of transfer payments—taking from the productive to give to the nonproductive—continue, the majority of this nation's *gross national product* will be oriented toward government programs, rather than toward the private enterprise sector. This is indeed a sorry commentary on a great and thriving nation which for so long has prided itself in its productivity, its free enterprise system and its willingness to *aid* personal gain and fortune, but not to *provide it outright!*

Well, I, as one member of the Congress, have now grown tired of seeing the federal government attempt to be the caretaker of everyone, seldom asking for personal sacrifice by anyone, and seeming to hold out a promise of *Utopia* which can be gained simply by appropriating more money—money that long since has stopped coming from a solvent federal treasury, but a federal treasury sinking deeper and deeper into debt and despair. This senseless system of running a country must come to an end, however unpleasant the thought might at first seem.

It upsets me beyond description to see government bureaucrats in Washington riding all over town in their shiny black chauffered cars—some 800 of them in Washington alone—and languishing in their plush offices, with little realization of what their irresponsible and foolish decisions often do to this country. It disconcerts me equally to see waste, inefficiency, and often pure greed, perpetuated among numerous government agencies afraid of asking the Congress for too little money, and therefore grabbing for all they can get—and usually spending it freely just so that they can ask for twice as much the following year.

But what pains me above all, and this is a responsible observation based on more than eight years in the Congress, is to see the drastic change in attitude which the American public has undergone—largely through no fault of its own, but because of the atmosphere permeating out of Washington—an attitude that federal *spending* is bad until it comes to their special program or subsidy. Believe me, hundreds of isolated areas of this type add up to hundreds of millions of dollars in a very short time.

Therefore, I have come to the conclusion that I cannot be a party to this on-going spending madness. I cannot support a growing system of promising everything—budget control, fiscal responsibility, economic order—but delivering little or nothing because it just seems to work out that way.

Reluctantly, I have decided and am determined that, except in very compelling circumstances, I will vote AGAINST every new spending proposal that comes before the House of Representatives.

Additionally, I have inserted this statement into the Congressional Record for all to see, and to urge my colleagues in the House to adopt a similar position. I recognize, of course, that there are those right here in the 3rd District who will initially agree with my approach, but then will take issue with me when a favorite program of theirs comes along 6, 12 or 18 months from now. I regret that I might have to vote in a manner unacceptable or dissatisfying to them, but I will always do so with one sole thought in mind—*this country must return to fiscal sanity.*

We cannot blame other factors for the economic crisis until we first sweep around our own government bureaucracies—and that is precisely what I intend to start doing.

STANISLAUS COUNTY UNDERSHERIFF HARRY L. OLIVER RETIRES FROM 46 YEARS OF DEDICATED SERVICE

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. McFALL. Mr. Speaker, after nearly 50 years of dedicated and distinguished service to the public as a law enforcement officer, Stanislaus County, Calif., Undersheriff Harry L. Oliver is retiring.

Undersheriff Oliver's retirement comes at a time when the Stanislaus County sheriff's office has sustained the retirement of another dedicated individual, former Sheriff Dan Kelsay, who retired in December after 23 years as sheriff.

On February 15, the Stanislaus County Sheriff's Employees' Foundation will honor Undersheriff Oliver with a retirement dinner in Turlock, Calif., a city in which he once held the post of chief of police.

Those who will gather that evening will be there to express appreciation, respect, and friendship for a man who has been a leader in his field and a dedicated, service-minded member of his community.

Undersheriff Oliver began his law enforcement career in 1929 in Solano County.

In 1941 he became a lieutenant in the Vallejo Police Department. It was following this service that in 1949 he became chief of police of Turlock, a post he held until 1954.

At that time, Sheriff Kelsay called upon him to join the Stanislaus County Sheriff's Department. Sheriff Kelsay recognized that the times required police officers to gain intensified professional training, and Undersheriff Oliver became the backbone of what is now the Modesto Regional Criminal Justice Training Center. When he took this post, he was serving as coordinator of the Central Valley Peace Officers' Training School for preemployment, as well as being involved in the in-service training program at Modesto Junior College.

Though Undersheriff Oliver is retiring, he leaves a positive legacy in the men and women who are continuing to serve in various aspects of law enforce-

ment, not only in Stanislaus County, but throughout the State of California.

Undersheriff Oliver's other professional contributions and community efforts are legion.

He serves on the advisory committee for the Modesto Regional Criminal Justice Training Center. He is a member and past director of the Stanislaus County Peace Officers' Association.

Undersheriff Oliver graduated from the 39th session of the Federal Bureau of Investigation's National Academy and holds a life membership in the California Peace Officers' Association. He is a member of the California State Sheriffs' Association, and a past president of the Solano County Peace Officers' Association.

In Turlock, Undersheriff Oliver is a member of the Masonic Lodge, and has served as president of the Shrine Club. He is a member of the Scottish Rite Lodge of Stockton and a past secretary-treasurer of the Central Valley Scottish Rite Club.

He also has served as chairman of the Turlock Red Cross Fund Drive.

Undersheriff Oliver devotes considerable energies as a member of the Stanislaus County Emergency Medical Care Committee.

He is a founding member of the board of the Turlock-based Medic-Alert Foundation and also serves on the foundation's executive committee. During his retirement, Undersheriff Oliver will be devoting more time to the life-saving Medic-Alert Foundation.

For me, it has been a distinct personal honor to know Harry Oliver and count him as a friend.

All who have been privileged to know and work with Harry Oliver, know that he and his charming wife, Edith, will look forward to new opportunities to enjoy the new vistas that life will offer and do things that a busy schedule has not permitted in the past.

Although I will not be present for Harry's retirement dinner, I would want to take this opportunity to offer best wishes and say thank you, Harry for many years of work and contributions made in the best tradition of service to the public and community.

TERRITORIAL SOCIAL SECURITY AMENDMENT

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. WON PAT. Mr. Speaker, on behalf of the thousands of elderly persons on Guam, the Virgin Islands, and Puerto Rico who have reached the age of 72, yet are ineligible to collect social security benefits, I am today introducing a measure which I have previously introduced in the 93d Congress as H.R. 9263 to provide our senior citizens with the benefits they deserve and need.

The bill would amend section 228(e) of the Social Security Act to include territorial Americans within the scope of this section of Federal law. As you know, section 228(e) was originally passed some years ago to permit elderly Americans who have reached the dignified age of 72 and have not contributed sufficiently to the social security fund to be eligible for benefits. Due to an oversight in the law, however, your fellow Americans in the territories were not included in section 228(e), thus denying these citizens even the scantest pension to help them through their twilight years.

I need not go into the various horror stories, oft-repeated here, which detail the incredible hardship our senior citizens endure because of inadequate finances. It is no secret that large numbers of these people failed to generate sufficient earning power to carry them through their retirement years. And, in these times of skyrocketing living costs, how our financially dependent elderly can be expected to make ends meet is beyond me.

Of course, age is a great leveler of persons and the elderly in the American territories are just as troubled by insufficient funds as are those here on the mainland. While I do not contend that my amendment would make anyone in the U.S. territories rich, it would provide them with some small pension—enough, hopefully, to help carry them through their great difficulties.

TRIBUTE TO HUGO F. SCHUNHOFF

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. STARK. Mr. Speaker, it is an honor for me to pay tribute to one of the most outstanding citizens of California's Ninth Congressional District, Mr. Hugo F. Schunhoff. This man has dedicated many selfless years to the field of deaf education, and as a result, deserves the respect of all. On February 21, 1975, a retirement dinner will be held by friends and colleagues of Mr. Schunhoff's to salute his many achievements. Although I regret I cannot be with him on this memorable occasion, I would like to express a special thanks to Mr. Schunhoff for his exceptional efforts to promote individual counseling and guidance for the deaf and hard of hearing.

For the past 15 years, the California School for the Deaf in Berkeley has been fortunate to have Mr. Schunhoff as their superintendent. In this capacity, Mr. Schunhoff has worked diligently, constantly directing his energies toward providing better educational opportunities for the deaf. It is worth mentioning, that the caliber of this particular school is high; one of its prominent features being the emphasis placed upon curricular improvement through the utilization of new methods of instruction. Again, many of this school's educational innovations can be attributed to Mr. Schunhoff, and I am sure that upon his retirement, he will be sorely missed.

Prior to his present position as superintendent, Mr. Schunhoff, due to his seemingly unlimited energy, accumulated a personal history of accomplishments which deserve recognition. The list is long: President of the Conference of Executives of American Schools for the Deaf, 1963–66; member of the Council for Exceptional Children; State president of the West Virginia Federation of Council for Exceptional Children, 1958–59; member of the Convention of Instructors of American Schools for the Deaf and a life member of the National Education Association; member on the Advisory Committee for the Program of Training Teachers of the Deaf, U.S. Office of Education, Public Law 87–276, 1964–65; member of the Secretary's National Advisory Board on Establishment of the National Technical Institute for the Deaf, Department of Health, Education, and Welfare, 1965–66; panelist, White House Conference on Education, 1965; and a member of the Advisory Committee on Handicapped Children, U.S. Office of Education, 1967–69.

Again I would like to extend my congratulations to Mr. Schunhoff, and wish him the best of luck in all his future endeavors.

ON THE DECRIMINALIZATION OF MARIHUANA

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. KOCH. Mr. Speaker, I am circulating amongst our colleagues a bill, H.R. 561, for cosponsorship. If enacted, the legislation would decriminalize the personal possession and the use of marihuana. The bill was first introduced by Senator JAVITS in the Senate and myself in the House on April 20, 1972. It would remove all penalties for the possession of marihuana for personal use in a private home; it would also allow not-for-profit transfer of marihuana and the possession of reasonable amounts of marihuana in public when such possession is incident to private use. Marihuana smoking in public would continue to be a crime.

I know how controversial this matter is, not because of a disagreement in the approach, but rather because legislators think that their constituents will not approve of it. I have met very few people who when made aware of the contents of the bill and its approach—decriminalization, not legalization—who do not agree with it. Yet, it has been extremely difficult to obtain congressional support for the bill.

On the other hand, in the State legislatures there have been forward movements in this area. Recently, the State of Oregon enacted legislation which made use or promotion of 1 ounce or less of marihuana a misdemeanor carrying with it a $100 or less fine.

I am pleased to report that our former colleague, Hugh Carey, now Governor of the State of New York, said this week that he is considering recommending the removal of criminal penalties for possession of small amounts of mari-

huana and replacing them with "a system of fines or mandatory attendance at health clinics."

On January 27, 1973, the New York State Bar Association officially adopted the position that "the criminal prohibition of marihuana . . . undermines respect for all law . . ."

In June of last year, the Illinois State Bar Association passed a resolution calling for the legalization of marihuana possession. On February 14, 1974, the Massachusetts Bar Association endorsed elimination of the crime of international possession.

Mr. Speaker, let me provide the House with some statistics bearing on the need for this legislation. The FBI Uniform Crime Report for 1973 states that 66.9 percent of all drug arrests last year involved marihuana. Marihuana arrests in 1973 increased 43 percent over the prior year. The State of California led the country with 95,110 marihuana arrests made in that State.

Mr. Speaker, according to the statistics now available, at least 26 million Americans, or 16 percent of the adult population, have tried marihuana at least once. Thirteen million Americans smoke marihuana on a regular basis. If in one fell swoop we were to place just the 13 million regular users in jail for 1 year, the cost to the American public at more than $6,000 per prisoner per year, would be over $79 billion. Does anyone suggest that this is practicable? Yet equal application of the law would demand such action.

I invite my colleagues to consider cosponsorship of this measure as a reasonable alternative to current law. The bill follows:

H.R. 561

A bill to amend certain provisions of the Controlled Substances Act relating to marihuana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Controlled Substances Act is amended by inserting immediately after section 404 thereof, the following new section:

"SEC. 404A. (a) Notwithstanding the provisions of section 308, 401(a)(1), 404, or any other provision of this title or any other Federal law, it shall not be unlawful for any person—

"(1)(A) to possess, within a private dwelling or other residence, marihuana for his own use, or for the use of others, within any such residence or dwelling, if such marihuana is not possessed with the intent to distribute, transfer, or sell such marihuana in violation of this title or any other Federal law; or

"(B) to possess, in a public area, marihuana in a reasonable amount, if the possession of such marihuana is incident to a private use within the purview of subparagraph (A) of this paragraph, and is not with the intent to distribute, transfer, or sell such marihuana in violation of this title or any other Federal law; or

"(2) to distribute, transfer, or sell, in public or private, any marihuana, lawfully possessed, to any person for a private use within the purview of subparagraph (A) of the first paragraph of this subsection, if such distribution, transfer, or sale is not made for profit.

"(b) Notwithstanding the provisions of section 511 or any other provision of this title or any other Federal law, marihuana in the lawful possession of any person shall not be considered contraband and shall not be subject to seizure or forfeiture by the United States.

"(c) In the prosecution of any person charged with an offense in violation of any Federal law, the fact that such person was suffering from marihuana intoxication at the time of the commission of that offense shall not be a defense to that charge or any element thereof.

"(d) For purposes of subparagraph (B) of paragraph (1) of subsection (a) of this section, the possession of marihuana in an amount not to exceed three ounces shall be deemed to be a reasonable amount, if such possession is incident to a private use within the purview of subparagraph (A) of paragraph (1) of subsection (a) of this section, and is not with the intent to distribute, transfer, or sell such marihuana in violation of this title or any other Federal law.".

IN MEMORIAM TO THE RIGHT REVEREND MONSIGNOR EDWARD J. SCULLY BELOVED PASTOR OF THE IMMACULATE HEART OF MARY R. C. CHURCH WAYNE, N.J.

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. ROE. Mr. Speaker, on Tuesday, January 7, 1975, the congregation of the Roman Catholic Church of the Immaculate Heart of Mary in my hometown of Wayne, the residents of my Eighth Congressional District and the State of New Jersey mourned the pasing of one of our Nation's most distinguished members of the clergy, outstanding character-builder of our young people, highly esteemed benefactor to all of our people, long time personal friend and neighbor; the Beloved Right Reverend Monsignor Edward J. Scully.

His 45 years in the priesthood spanned a dedicated lifetime of goodwill and brotherhood in unselfish devotion to mankind that has truly enriched the spiritual, educational, recreational and cultural endowments of our community, State, and Nation. I know that you and our colleagues here in the Congress will want to join with me in extending our sincere condolences to the remaining members of his immediate family: His sister, Mrs. Patricia J. O'Brien of Newark, N.J.; and his three brothers, John of Morristown, N.J.; Maurice of Avon, N.J.; and Thomas, a member of the Christian Brothers at Annandale, Md.

We have indeed lost a great friend and adviser whose inner greatness in his respect for God and man has earned him the eternal gratitude of all of us. As most poignantly expressed by the Honorable Gerard Porter, esteemed trustee of the Immaculate Heart of Mary Church:

He will be here with us, forever, right at the shrine (the Blessed Mary shrine on the church property where the Monsignor has been interred to be lastingly cherished as sacred). Being a humble man was not his routine, but he was a simple man; a simple, basic follower of the Catholic religion. There are no gray area in the Catholic church as far as Monsignor Scully was concerned.

Monsignor Scully was born November 18, 1903, in Newark and was ordained in the Sacrament of Holy Orders on June 8, 1930 at St. Patrick's Pro-Cathedral, Newark, N.J. He was a graduate of St. Peter's Preparatory School, Jersey City; Seton Hall College; and the Immaculate Conception Seminary, Darlington where he completed his studies for the priesthood.

The richness of his wisdom and the quality of his leadership have been an inspiration to all of us. Throughout his lifetime of unselfish service to the public good, he has built for the people a solid foundation of trust and integrity that strengthen the character; a concrete place to participate for spiritual, recreational and educational pursuits; the warmth of friendship that binds people together in common endeavor and purpose; and a fond memory of the greatness of a man who placed others above self in the pursuit of happiness and contentment in service to God and his fellowman.

His early assignments as a priest included St. Anne's Church, Jersey City and St. Bernard's Church, Plainfield, N.J. In 1930 as a young curate at St. Michael's Church, Newark he organized one of the first Catholic Boy Scout Troops before transferring in 1935 to assist the pastor at St. Vincent's Church, Madison, N.J. He established a young ladies' Sodality of the Blessed Virgin, the Nocturnal Adoration Society, and another boy scout troop at St. Vincent's. His achievements during this period were widely acclaimed and in the establishment of the Catholic Diocese of Paterson in 1938 he was appointed the first director of the Propagation of the Faith.

My hometown of Wayne was next blessed by the good works of Monsignor Scully. In 1945 he was appointed as the first resident priest of our community as pastor of Holy Cross Church where his parish in the Mountainview section of Wayne had been a Franciscan Mission for 19 years.

Under his unswerving direction, devotion, sincerity of purpose, and diligence to meet the great needs of our people, he moved ahead with foresight and perseverance in acquiring land sites and building the necessary edifices to conduct religious services and educational programs for the people of our region. The first parochial school in our community was opened under the direction of Monsignor Scully in 1950. Monsignor Scully coordinated and under his responsibility and diocesan jurisdiction acquired for the church the land site for the DePaul Regional High School on Alps Road and the site of Our Lady of the Valley Church in the Preakness section of Wayne—all of which are striking memorials of his exemplary accomplishments. The construction of his final pastorate, the Immaculate Heart of Mary, was completed in June 1959 and dedicated by Bishop James A. McNulty on November 29, 1959.

Monsignor Scully was designated Papal Chamberlain with the accompanying title of monsignor by Pope Pius XII in 1954 and domestic prelate by Pope Paul VI in 1964. He was the first director of religious vocations in the diocese and the first chaplain of the Serra Club comprised of leading citizens

in our business and professional community dedicated to fostering vocations to the priesthood. He was chaplain of the Butler district of the Diocesan Council of Catholic Women for 25 years; a member of the Priests Senate; vicar of Wayne and Little Falls, N.J.; and served on the diocesan board of consultors for the past 10 years.

The monsignor's outstanding contributions to the civic and cultural endeavors of our community are warmly expressed in the formal resolution unanimously adopted by the governing body of the township of Wayne on January 15, 1975, which reads as follows:

RESOLUTION

Whereas, residents of Wayne Township mourn the passing of Right Reverend Monsignor Edward J. Scully of Immaculate Heart of Mary, Roman Catholic Church, Ratzer Road, Wayne, New Jersey, on Tuesday, January 7, 1975; and

Whereas, Monsignor Scully became Pastor of Holy Cross Roman Catholic Church of Wayne in the year 1945; and

Whereas, this gave him the unique honor of being the first resident Catholic priest in the Township of Wayne; and

Whereas, Monsignor Scully in 1953 organized the Nocturnal Adoration Society of Wayne which is still in existence and active in the Township; and

Whereas, in the year 1955 Monsignor Scully, built and was named Pastor of the new Parish, Immaculate Heart of Mary in Packanack Lake; and

Whereas, this truly outstanding priest not only purchased the land for Immaculate Heart of Mary Parish but also purchased the necessary land for Our Lady of the Valley Parish in Preakness and De Paul Regional High School on Alps Road; and

Whereas, Monsignor Edward J. Scully, the Dean and Vicar of all Wayne Catholicism was a man whose entire life was an act of dedication to his God, his Country, and to his Community; and

Whereas, this dedicated servant of God faithfully served his flock for 45 years; and

Whereas, men of all faiths and political beliefs had long sought and eagerly utilized his advice, counsel, and guidance; and

Whereas, this fine man of the cloth has left an everlasting mark etched in the minds and hearts of all Wayne residents,

Therefore, be it resolved that Mayor Newton E. Miller, Council President Charles Kabbash and Members of the Council, James J. Duggan, Harry Rudiger, Joseph Vadala, James Mingo, Walter Jasinski, David Waks, Thomas Elm and Estelle Perry mourn the passing of Right Reverend Monsignor Edward J. Scully, and

Be it further resolved that this Resolution be spread upon the minutes of the January 15, 1975 Public Meeting of the Wayne Governing Body and copies be forwarded to members of Monsignor Scully's family and to the Council of the Immaculate Heart of Mary Roman Catholic Church.

The spontaneous response at the celebration of mass attended by his many, many friends of all religious beliefs who gathered in homage to pay the last respects of a grateful people to the monsignor was indeed awe inspiring. With your permission I would like to insert at this point in our CONGRESSIONAL RECORD a most descriptive news story that appeared in the Herald News, by News Staff Writer Joan Wiessman who has captured the deep reverence and solemnity of the Monsignor's last rites in her writings as follows:

MONSIGNOR SCULLY ENSHRINED

(By Joan Wiessmann)

WAYNE.—A dedicated priest has been laid to rest in the shrine of the Blessed Mary in front of the church he founded.

"Our brother Edward has fallen asleep," said Bishop Lawrence Casey of the Paterson Diocese, chief celebrant during the resurrection mass held Saturday morning for Msgr. Edward J. Scully at the Immaculate Heart of Mary Church, 580 Ratzer Road.

The Rev. Msgr. Walter J. Jarvais, a classmate and intimate friend of Wayne's first resident priest, called Msgr. Scully's lifetime, "The priestly success story."

"He will be here with us forever, right at the shrine," said Gerard Porter, a parishioner and close friend of the stately, 71-year-old priest.

In spite of dismal weather, the church sanctuary and the all-purpose room adjacent to it, were filled. Cars, unable to find room in the large parking lot, were parked in a one-half mile radius of the church grounds. The 14-acre site, high on a hill overlooking Packanack Lake, was chosen by Msgr. Scully.

Quiet tears spilled on the cheeks of parishioners, relatives and nuns during the solemn procession of about 80 priests of the Paterson Diocese who paid their last respects to the man who spent 30 of his 44 years in the priesthood administering pastoral services at the Holy Cross Church of the Immaculate Heart of Mary Church in Wayne.

Rep. Robert A. Roe, D–8, a native of Wayne and a parishioner at Holy Cross, arrived to pay tribute to the priest he had known 30 years. Roe's brother, James, followed the pallbearers.

Bishop Casey said of Msgr. Scully, "He was always a churchman, thinking of the welfare of the church and the people of his parish. Sometimes he might hold contrary views to his parishioners', but they always knew where he stood." Bishop Casey and he, too, was a classmate of Msgr. Scully and they were both ordained in 1939, although in different diocese.

"Msgr. Scully loved the church, it was the center of his whole life and activity . . . Disloyalty to a legitimate authority was an unknown quantity in his life . . . His faith was adamant, yet it was the simple faith of a child of God," said Msgr. Jarvais. "He was a priest, a good priest. How fitting it is that he will be enshrined near the Heart of Mary."

Porter said, "Being a humble man was not his routine, but he was a simple man; a simple, basic follower of the Catholic religion. There was no gray area in the Catholic church as far as Monsignor Scully was concerned."

While he is not of the same religious faith, Mayor Newton Miller was among Msgr. Scully's close friends and allies. Miller served as a pallbearer.

Paul Forbes, another pallbearer who enjoyed a close relationship with the Wayne priest, is donating a bronze plaque for the crypt at the shrine. The other pallbearers included Alfred and John Baley, John McLeiland, John Hannigan, Richard Joyce and Gerald McKenna, a church trustee.

Wayne Postmaster Frank McNally, Township Clerk John Phelan, Councilmen James Duggan, Walter Jasinski and James Mingo were some of the other dignitaries among the mourners.

There are carillons in the shrine, donated to the church by the late Theodore Pojanowski and Mrs. Pojanowski, which ring three times a day. Msgr. Scully's parishioners will be reminded of their first priest at 9 o'clock each evening when the carillons ring for the dead. The shrine, imported from Italy by Msgr. Scully, was made of Carara marble to the priest's specifications.

The Rev. Msgr. Jarvais said, "He sought God in his undiminished devotion to his priesthood. We are consoled in the realization that God has been good to him."

During his eulogy, Porter said that Msgr. Scully was "proud" that Bishop Casey took time out from his busy schedule to visit him at St. Joseph's Hospital in Paterson where he was hospitalized four times in recent months, finally succumbing to pneumonia and complications on Jan. 7.

Porter also said that Wayne's "Dean of Priests" was extremely pleased that the Rev. John Morris had been appointed by Bishop Casey to serve as copastor with Msgr. Scully, and praised the Rev. Michael Quinn, curate, for his long-time, able assistance. The Wayne church is in good hands. The Rev. Morris and Father Quinn will carry on Msgr. Scully's responsibilities.

"Msgr. Scully will always hold a unique place in your hearts as founder of this parish. All during his lifetime he had a tender devotion to Mary. May she watch over the parish he loved so much," Bishop Casey told the parishioners.

Mr. Speaker, it is indeed my privilege and honor to bring Monsignor Scully's purposeful endeavors and achievements to the attention of you and your colleagues here in the Congress and seek this national recognition of all of his good works. In reflecting on the principles of freedom enmeshed in the founding and the history of America, as we choose to have our Nation ever flourish, his lifetime of distinguished service is of national and international significance to all.

In the reflections of St. Timothy:

I have fought the good fight,
I have finished the race,
I have kept the faith.

Monsignor Scully has gone to his resting place and is now under the eternal care of God whom he served so well with reverence and devotion in accomplishments that have truly inured to the benefit of all of God's people. May he rest in peace.

STATEMENT REINTRODUCING NURSE TRAINING ACT

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. DODD. Mr. Speaker, I am today introducing the Nurse Training Act which was passed by both the House and Senate last year and vetoed by President Ford after the 93d Congress had adjourned.

There is a deplorable shortage of physicians and health care facilities in various areas throughout the United States. In my district of Connecticut, alone, there are only eight hospitals providing 1,449 beds to care for the medical needs of 555,800. The doctor shortage is equally astonishing. For example, in New London, Conn., there is approximately one doctor per 840 persons. The doctor shortage in eastern Connecticut is one of the worst in the entire Northeastern region. In fact, 9 out of the 60 towns in my district in Connecticut have neither a doctor nor a dentist.

This legislation, by increasing the number of nurses and nurse practition-

ers, would alleviate much of the work currently performed by greatly overworked physicians, and consequently improve primary medical care substantially.

Of equal importance when considering the benefits of this bill is that it would encourage Vietnam veterans with previous health care experience to enroll in nursing schools or, if they are not qualified, to enter a school that would help them meet the entrance requirements. This legislation represents a positive step toward utilizing a too often neglected human resource pool for the benefit of our society as a whole.

Mr. Speaker, this legislation would do much to meet the health requirements of the American people, and I urge prompt House action on it.

INCREASING FOOD PRODUCTION

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. ASHBROOK. Mr. Speaker, within the Halls of Congress are being heard numerous proposals for Government controls—controls on wages and prices, on credit allocation, on energy distribution, to mention only a few. The reasons presented for needing such controls usually include the items to be controlled cost too much or are in short supply.

Before putting more governmental regulations on areas of our lives, it is important to give some thought to an article Earl McMunn, editor of the Ohio Farmer, has written in that same publication. In part, Mr. McMunn writes:

Production is the only cure for shortages. This is true, whether the shortage is in food, fertilizer or oil. We can't have more by producing less.

This is particularly true in agriculture. American agricultural production has enabled our country to have abundant food supplies. Farmers in this country should be encouraged to increase production.

The text of Mr. McMunn's interesting article, "There's No Substitute for Production," follows:

LET'S REASON TOGETHER: THERE'S NO SUBSTITUTE FOR PRODUCTION

(By Earl W. McMunn)

Production is the only cure for shortages. This is true, whether the shortage is in food, fertilizer or oil. We can't have more by producing less.

We have more when we are guided by principles which encourage production. We have less when we follow practices which discourage production. These are simple truths and not difficult to understand. But, when it comes to public decisions, they are often most difficult to put into practice.

Almost everyone seems to be concerned about food supplies. Last month's United Nation's World Food Conference in Rome was focused on the need for food. It is estimated that malnutrition affects at least 400 million people. And, that global demand for food is increasing faster than supplies.

Rising demand is the reason prices are higher in the world's grain markets. The price signal carries the message to consumers and they are unhappy with what they hear. But, instead of interpreting the message and taking rational action, some decision-makers would like to kill the messenger because the message he carries is an unpleasant one.

This is what happens when you adopt price controls. Higher prices signal the need for increased production. Control prices by governmental edict and the message never gets through. It's much like an athlete who uses a pain killer on an injured knee so he can get back into the game and ends up with a life-long crippling injury.

The consumer calls the tune, and there is no better system when it is expressed through action in the market place. But, in recent years the idea has grown that consumers are helpless individuals who must be protected against all manner of threats, including the folly of their own foolishness. This thinking has led to all kinds of waste and disruption within the production system.

Too many people fail to understand that food production is a complex business. That is takes a mixture of technology, land, labor, capital and commercial inputs. Cripple any of these and food production is hampered. Costs are increased. The people who need the food are the real victims.

While some people strive to increase food production, others are working to make it more difficult. Some do this out of ignorance. Others are seeking political advantage. Still others are dedicated to the destruction of our economic system.

Much of the attack is aimed at producers of commercial farm inputs. Pesticides, feed additives and even fertilizer are under attack because of alleged threats to human health. Many charges are based upon the flimsiest of evidence, or even no evidence at all. It is sufficient to claim that a product "may" constitute a "possible" health hazard.

We all know that pesticides, animal health products, feed additives and other commercial inputs have added to the food supply and made farming more efficient. This is a major reason American farm production is now the envy of the world. And, why we live in abundance while other nations must get along at the very brink of starvation. For many, starvation is more than a threat. It is an every-day occurrence.

Everyone is in favor of reasonable safeguards for all food products. Some "protectors of public safety" have pushed their demands to unreasonable extremes. We are already seeing some of the result in the form of less production and higher prices. The Animal Health Institute, for instance, estimates that a fifth of the research spending in the animal health industry is now devoted to defending products previously accepted by regulators. These attacks undermine our ability to increase food production. When they are successful they cut present production.

Philip G. Connell, Jr. talked about this during a recent meeting of the Environmental Management Association in Chicago. Connell is president of the agricultural division of American Cyanamid Company. Among others, he discussed questions about the use of antibiotics in feeding meat animals and poultry where cancer is not involved and risks are no more than speculative, not documented.

Connell said:

"These products, which have been used for more than 20 years, serve three purposes. They permit improved growth with less feed. They prevent bacterial disease under the intensive production practices which have increased our meat supply so drastically. And, of course, they are also used to treat disease in animals, just as in humans.

"Although there is no documentation that it has ever happened, some people fear that the use of antibiotics in these disease-prevention programs might create a population of anti-biotic resistant bacteria; that this resistance might be transferred to bacteria in man, and that, therefore man might incur a disease which could not be treated with the same antibiotic.

"Nearly 25 years of practical experience and a substantial body of scientific literature tell us this fear is only speculative, yet producers of antibiotics are being required to conduct studies to prove that this speculative hazard does not exist. A quarter of a century of experience with farm animals and hundreds of scientific papers are not enough to keep a product on the market.

"Without taking into account any increase in animal deaths, the U.S. Department of Agriculture recently estimated that feeding the same number of cattle, calves and hogs without antibiotics would raise the consumer's meat bill a total of 2.1 billion dollars per year, and yield 7½ pounds less meat per customer.

"They further estimate that each percent increase in animal mortality would add another $261 million per year to our grocery bill. This does not take into account increased costs for animals that may fall ill and go off feed, then recover to be sent to market a lot later than they should have been.

"To summarize, the U.S. Department of Agriculture estimates that a ban on antibiotics would increase retail prices of beef by 9.78 cents per pound, plus another 1.8 cents per pound at retail, for each one percent increase in mortality. Pork prices would rise 18.8 cents per pound at retail, plus another two cents for each one percent in mortality."

The point most often overlooked is that consumers, not producers, are the real losers when aids to efficient farming are banned. One recent study of the USDA even shows that farmers would actually increase their net returns if all antibiotics were banned. This is based upon the judgment that increasing retail pork prices more than 18 cents a pound and beef prices nearly 10 cents would not discourage consumption. That assumption may be in error.

In any event, we know that world food reserves are at a low level. Meeting present demand and rebuilding stockpiles to reasonable levels will take some time. Our agricultural abundance is a result of a combination of technical advances. We learned how to improve varieties, use commercial fertilizers, control weeds and insects with chemicals, improve feeding efficiency with additives and health products. Each new product improved efficiency and reduced food cost.

But, this story of progress is not well understood by most people outside the agricultural community. They have been sold on the idea that commercial inputs are dangerous and a threat to the survival of the human race.

The real threat to survival is the threat of starvation. The magic of America's agricultural science and technology has created a food production system unmatched on the face of the world. This same productive scientific complex offers the only hope for starving peoples wherever they are living.

While the world looks to science for new food production, the scientists find themselves defending the technology which has worked so well. These attacks are justified because of alleged concern for the health of people. This is a hollow excuse. Zealots who are truly concerned about health hazards should turn their attention to threats which are massive and well documented by responsible health authorities. What about smoking, cancer and heart disease for starters?

HUMAN RIGHTS IN THE ISRAELI OCCUPIED TERRITORIES

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. FRASER. Mr. Speaker, last April 4, Dr. Israel Shahak, an Israeli professor of chemistry at the Hebrew University in Jerusalem, gave testimony before the Subcommittee on International Organizations and Movements which I chair. The hearing was one of a series examining international violations of human rights, and Dr. Shahak's testimony addressed itself to Israeli actions in the territories occupied since June 1967. Dr. Shahak is chairman of the Israeli League for Human and Civil Rights.

It is not surprising that Dr. Shahak has been criticized in Israel for having been publicly critical of Israel during his foreign travels, which included the appearance before the House Subcommittee on International Organizations and Movements. The loyal critic is not warmly welcomed by a nation fighting for its survival.

So, Mr. Speaker, while we may deplore the vehemence of the attacks against Dr. Shahak we should not be surprised by them. But we can also be encouraged that other Israeli voices have been raised in defense of Dr. Shahak's right to speak out.

I insert Dr. Michael Rabin's impressive comments on "Free Speech in the University" defending Dr. Shahak's right to free speech at the conclusion of these remarks. Rabin is the rector of Jerusalem's Hebrew University. Dr. Rabin's views, here translated from the Hebrew language Israeli newspaper Haaretz speak well of Hebrew University and by implication Israel. Dr. Rabin in effect paraphrases the admirable sentiment expressed by Voltaire when Voltaire said that,

I disapprove of what you say, but I will defend to the death your right to say it.

It is this sort of defense that is necessary if freedom is to survive and prosper.

FREE SPEECH IN THE UNIVERSITY

(By Michael Rabin)

Amnon Rubinstein's article (*Haaretz*, October 10) commented on the stand of Hebrew University towards Dr. Israel Shahak, who is a professor of organic chemistry on the faculty, and who appeared ten days ago in Amsterdam as a speaker-participant in a "Solidarity for Palestine Week" forum.

Our explanation of academic freedom is broader than that suggested by Amnon Rubinstein in his article. According to Rubinstein, only the universities decide who will teach and who will learn in them. Something important is missing in this definition: Teachers and scholars in the university have the right to decide for themselves what their lectures will contain and what kind of research they will do. Following the decision that a professor will teach a certain subject, the professor is responsible for the subject. The dean or the chairman will not dictate to the professor this or that theory or point of view to present in the lecture.

CITIZENS' RIGHTS

In his article, moreover, Amnon Rubinstein touches upon the freedom of speech of faculty members outside the university. Here, academic freedom is not a consideration, but the right does exist for every citizen to present ideas on political and other subjects. Employers should not limit this right; a factory worker or health department doctor, for example, should not be limited by the employer in presenting political ideas outside the place of work. From this perspective the university should not impose limitations. A person should be allowed to express ideas not acceptable to others, to be a radical, to oppose those ideas accepted by a majority of the people. The condition that should prevail is that the person presenting such views does not appear as the spokesman for an institution, does not use the institution as a stage for his or her appearance, and does not occupy a position indicating that he or she is speaking for the institution.

The university, even more than other institutions, should be a place in which people possessing differing and opposing political ideas and ideologies may work together in peace. The university should be a place in which a person is not limited because of his or her political ideas and beliefs, even if they are radical and so upsetting as to be almost unbearable.

UNIVERSITY REGULATIONS

The university regulations pertaining to the faculty point out the responsibility of the professor in the areas of teaching and research. The regulations apply to the professor's behavior in performing duties to the university, to colleagues, and to students. All of this is connected to the professor's activity as a member of the faculty, i.e. as a teacher and scholar. The regulations do not contain stipulations concerning a faculty member's behavior concerning things not connected to the university. University regulations do not allow the universary to change or discipline faculty members along the lines advocated by Amnon Rubinstein in his article.

If we find that Shahak, in his speeches or in any of his actions, did anything against the laws of the State, we can request that those who have the right to look into such matters do so. Such persons could then accuse Shahak, take him to court, or do some of the things requested by Amnon Rubinstein in his article, such as confiscate Shahak's passport. The university can do nothing about these things.

Shahak's promotion to professor was examined and discussed in the regular manner in the university. If we had not acted accordingly towards Shahak, we would have given punishment without trial. The members of the promotions committee worked on the subject of promotion and made their decision after much study and consideration.

Based upon reliable evidence, our examination showed that Shahak did not unduly use sabbatical or research money in 1972. This finding is the opposite of what Amnon Rubinstein wrote in his article about Shahak's travel and appearances. Shahak did not even take money indirectly from sabbatical or research funds. We know that Shahak was most careful not to mix politics with his teaching of chemistry. He did not use his classes as a political stage. The students, by the way, have the freedom not to take Shahak's courses. Rubinstein seems to put himself in the position of being the students' lawyer, but the students do not need him. In a 1973 rating of faculty members by students Shahak was selected as one of the best teachers in the university.

DANGER TO FREEDOM

If we correctly understand the call in the Amnon Rubinstein article to limit the freedom of speech of faculty members, we should consider this dangerous for the meaning of individual freedom in a democratic state. The Rubinstein point of view, as applied to a university faculty, could influence students with political positions to reject certain instructors. We can connect this with certain memories of Establishments and of periods of time when freedom of speech was throttled inside and outside the universities. The State of Israel and the Israeli people are so sure of themselves that they do not need to accept anti-democratic ideas.

What I have written here concerns only the issue of freedom of speech in university and in our society. What I have written should not be considered a defense of what Israel Shahak says or does politically. Within the faculty and among the people generally, different views exist of Shahak's position and activities.

THE COST OF FOOD STAMPS

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Ms. ABZUG. Mr. Speaker, I am reintroducing today, with 25 cosponsors, a bill to prevent the administration's planned increase in the cost of food stamps from going into effect March 1. If the regulations promulgated by the Department of Agriculture at the behest of the President are allowed to go into effect, most recipients of food stamps will be required to pay 30 percent of their household income for their allotment of stamps. My bill, which is substantially identical to a measure introduced by Senator MCGOVERN in the other body, would, among other provisions, freeze the cost of food stamps at the level effective January 1, 1975, and reduce the maximum percentage of income which a household could be charged from 30 percent to 25 percent.

The Committee on Agriculture today conducted hearings on the administration's planned price increases for food stamps. I am inserting in the RECORD at this point the text of the testimony which I submitted to the committee:

TESTIMONY OF REP. BELLA S. ABZUG

Mr. Chairman, I want to thank you for the opportunity to testify this morning concerning the Ford Administration's plan to raise the cost of food stamps for the poor, elderly, blind, and disabled. Even in better times, the Administration's plans would defy reason, but in the current economic situation such a proposal both boggles the mind and affronts the sense of decency of the American people. I am therefore pleased to see the Committee acting so promptly to hold hearings on this matter, so that the Congress may inform the Administration in unequivocal terms that we will not allow these groups to be shouldered with an even greater share of the burden of our economic crisis than they already bear.

In my home state of New York, there are approximately 800,000 participants in the food stamp program. The Department of Agriculture's "Food Profiles" indicate that about 95 per cent of these recipients will be charged substantially more under the new regulations. The average increase in the price of food stamps for low-income New Yorkers will be $100 per household annually. It will take its severest toll on those in one and two person households, most of whom are elderly and already suffering from the soaring costs of housing, health care, and other necessities. According to estimates by the Community Nutrition Institute, most single

low-income persons in the food stamp program would face increases of 35 to 100 per cent in the cost of their food stamps, and for some, the increase would be as much as 800 per cent.

In New York, most households participating in the food stamp program are now paying between 20 and 28 per cent of their income for food stamps. With the regulations raising the cost to 30 per cent of household income, the poor of New York would be burdened with an additional $40 million dollars in food costs to those who are least able to cope with the current inflation.

Moreover, many persons now receiving food stamps will be effectively eliminated from the program. The modification in the regulations to require a minimum benefit of $1 is a sham and a disgrace. What it means is that single persons with monthly incomes of $154 to $194, although not technically eliminated from food stamp eligibility, will be required to pay $45 for $46 in food stamps. It is audacious for the Department of Agriculture to suggest that this $1 is in any sense a benefit, particularly in view of the difficulties involved in obtaining food stamps because of the many administrative failures of the program.

Apart from these specific examples of the devastating effect of the Administration's plans on our nation's poorest citizens, it is evident that the Administration has lost sight altogether of the objectives of the Food Stamp Program. The Food Stamp legislation was enacted in recognition that there is poverty and starvation in our country, that there are children suffering from malnutrition, and that there are elderly people whose diets barely sustain them from day to day. The purpose of the food stamp program is to give food to the hungry. The purpose of the food stamp program is to give food to the hungry. The Administration is attempting to take it away. This is unconscionable.

We are in a severe recession, poor families are suffering greatest from our rampant inflation, the number of unemployed grows daily. We should be expanding the food stamp program, not restricting it. Even now the program is not reaching many people who need the benefits it was intended to provide. But instead of mitigating the problems of our poor and low-income citizens, the Administration is seeking to exacerbate them.

Over 4300 comments were submitted in response to these regulations, in almost unanimous opposition to the proposed price increases. But the Administration has ignored our comment, and while asking us to give General Thieu $300 million to prop up his dictatorship in South Vietnam, is proposing to take $325 million from the poor and the elderly in a four month period. This cannot be tolerated.

The response to the Administration's proposal from my constituents has been one of shock and outrage. Both here in Washington and in my New York district offices, I have received innumerable letters, telephone calls and visits from citizens expressing disbelief and anger that, at a time when food prices are continuing to escalate, when there are also greatly increased costs for such essentials as housing, clothing, and medical care, when the unemployment problem is growing increasingly severe, the Administration would seek to oppress even further those least able to bear the burdens of recession and inflation.

The poor and the elderly are asking what justification there can be for making it more difficult for them to provide themselves and their families with adequate nutrition. I think the answer is clear that there is no justification. If we examine what little action the Administration has proposed to deal with the current economic crisis, we can see that not only is there no coherent policy, but there is also absolute insensitivity to the effects of the economic situation on our poorest citizens. At the same time the Administration is asking the poor and the elderly to pay more for food stamps, the President is proposing a tax rebate for our more fortunate citizens. The President's proposed tax on oil imports will send home heating bills skyrocketing and increase prices of numerous other commodities, including fertilizers and agricultural products. The Administration proposes that the poor, who can least sustain such an economic crunch, will have several hundred dollars a year taken away from them. Yet others will have those same amounts returned to them, in the form of tax rebates, to bolster our recessionary economy. Where is the rationale or equity in these proposals?

One of the bills before the Committee to meet this problem is H.R. 181, a bill substantially identical to a bill introduced in the other body by Senator McGovern which would freeze the costs of food stamps at the levels effective January 1, 1975, and which would reduce the maximum percentage of income which a household could be charged from 30 per cent to 25 per cent. I have reintroduced H.R. 181 with 25 co-sponsors.

I commend you for the speed with which you have responded to the crisis the Administration has caused for our poor and elderly, and urge your swift action to defeat the Administration's plans along the lines of the legislation which I and others have introduced.

DICK HERMAN

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. McCOLLISTER. Mr. Speaker, national politics has indeed lost an active leader, friend, and supporter.

Last week, Nebraska's Republican national committeeman, Richard L. Herman resigned. He resigned because of expanded business activities and responsibilities—finding that there was little time for anything else.

It should be noted that Dick Herman was one of the real bright spots in a time of dark, stormy Republican days. His service to the party and the Nation were interwoven.

Personal commitment to the ideals of the two-party system earned him the respect of national leaders from both parties.

Dick's tireless efforts on behalf of the GOP were an inspiration to all who worked with him. He especially had an impact on the young people because of his high standards and fast pace. As vice chairman of the Arrangements Committee of the Republican National Convention in 1972 he was responsible for one of the most open and best organized political conventions in history.

Mr. Speaker, I would like to take this opportunity to publicly express my sincere appreciation and thanks to Dick Herman. His dedication, service and calm and reasoned approach to national problems have made him one of the most admired and effective party leaders of our time.

CHILE

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. BADILLO. Mr. Speaker, there is a tendency for many of us to concentrate our attention on foreign affairs only in times of crisis. At the present time, Vietnam and the Middle East dominate the front page headlines and focus public concern on those events and problems. Under the circumstances, the conduct of our Nation's foreign policy in other areas of the world is often overlooked.

The case of Chile is an excellent example. A year ago, the tragic events taking place in that country and the role of the United States were of great concern. Since that time, the situation in Chile has largely been ignored by the State Department and the general public. It is regretable that our Nation's policy toward Chile remains one of dispassionate unconcern for the Chilean people.

Fortunately, a number of journalists have sought to keep the question of United States policy toward Chile in the public view and in its proper perspective. I am pleased to insert in the RECORD a recent article by Mr. Anthony Lewis in the New York Times. This is one of a series of articles on Chile by Mr. Lewis in which he describes the continued suffering of the Chilean people and the consequences of our Government's policy of indifference.

[From the New York Times, Jan. 27, 1975]

"WILL IT MAKE ME FAT?"

(By Anthony Lewis)

Dr. Gustavo Molina of Chile has been a leading figure in public health in Latin America for years; a book of his is a standard text. He was not in politics in Chile. But as an interne he had roomed with Dr. Salvador Allende, and he was a lifelong friend. At Allende's request he came out of retirement in 1970 to administer a region in Chile's long-established national health service.

Dr. Molina is a grandfatherly man whose voice remains gentle, his manner detached as he describes what he experienced after the military coup in Chile. "I'm 64, I'm a survivor," he says. "I don't care about me personally. I said that to the military men."

On Jan. 8, 1974, "three gentlemen from the Air Force," as he puts it, seized him without notice in Santiago. They threw him on the floor of a station wagon with two other doctors, Giorgio Solimano and Reynaldo Martinez. They were taken to a prison camp called Tejas Verde and kept together in a small room.

On Jan. 14 the three doctors were taken to another place, with hoods over their heads, for questioning. An officer told Dr. Molina that he was suspected of "permitting paramilitary instruction in your building." Dr. Molina realized that he was talking about concerts and social and other meetings in the health center's cafeteria. As he tried to explain, he heard another prisoner screaming in pain.

Dr. Molina was not tortured—he attributes that to his age. His two roommates were. They were strapped under gymnastic "horses," beaten and given electric shocks.

"Their lower limbs were paralyzed," Dr. Molina said. He added in a calm professional

tone: "It must be a very low current, because the paralysis lasted only four or five days. I nursed them."

Dr. Solimano's torturer, when he finished, drank a glass of mineral water. "Giorgio," he asked the doctor, "will it make me fat?"

The three doctors had tried to prepare themselves to behave "with dignity." So Dr. Solimano, a nutritionist, gave a careful reply on the effects of mineral water.

"If you ever find me outside, Giorgio," the torturer asked, "what will you do to me?" Dr. Solimano said he would do nothing—he was a doctor, he helped people. The torturer responded: "Don't you see? This is a profession, just like yours."

Why have people behaved so savagely in Chile since the coup? The question puzzles Dr. Molina. It used to be such an orderly country, so law-abiding. And the change is not confined to the military.

"The present Director of Health was my student in 1951," Dr. Molina said—"my favorite student for years. He was a member of the Socialist party then. Now he has become a wild beast, asking the Army to execute certain doctors.

"Why? Why in Germany? I think the same type of ferocity developed in France after the Revolution. It's like a cancer. Suppose tomorrow the left came to power in Chile. Would we be able to stop torture?"

Another important question is whether outside pressure helps the victims of torture and arbitrary arrest. Dr. Molina is convinced that it does, especially when it comes from the United States. He says that various expressions of U.S. concern were crucially helpful to him, notably a committee sent to Chile by Senator Edward Kennedy. He believes that Dr. Solimano was saved by the personal intervention of an American nutritionist, Dr. Nevin Scrimshaw of M.I.T.

No formal charges were ever made against Dr. Molina or the others. After months of confinement he and Drs. Solimano and Martinez were released. He found asylum in the Swedish, then the Colombian Embassy and got out to Colombia. He was interviewed during a visit to the United States, where he spent years of professional life and has many friends. He got his Public Health Degree at Johns Hopkins.

The Chilean junta makes a practice of denouncing as a criminal and conspirator anyone who reports the use of torture. It may be well, therefore, to say that I sought an estimate of Dr. Molina from a man who was in the cabinet of Allende's anti-Communist predecessor in Chile, Eduardo Frei. His estimate was: "a professional, a moderate man, a serious man, a respected physician, not involved in politics."

The junta maintains that it has issued orders against the use of torture. Everett G. Martin of The Wall Street Journal, in a thoughtful recent article from Santiago, wrote: "An honest investigation of its own jails by the junta could end torture quickly if its intentions were genuine."

Dr. Molina does not want to get involved in political attacks on the junta. Indeed, he was reluctant to talk about his own experience—except that he thought doing so might help some doctors who are still in prison in Chile. One is Professor Hugo Behm, an internationally-known demographer. Another is Dr. Natacha Carrion, whose husband was tortured and killed and who delivered her own baby in prison. Dr. Molina hopes that Americans who helped him will care about them as well.

VIVIEN KELLEMS, FOE OF TAX SYSTEM, DIES

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. DODD. Mr. Speaker, Vivien Kellems, one of the most independent and courageous people I have ever had the privilege to know, passed away on Saturday. This country has lost a great advocate of personal equality and freedom.

Vivien Kellems gained nationwide fame for her battles with tax officials over regulations she considered to be discriminatory. She was active and involved in her Nation's affairs whether as businesswoman, candidate for political office, or citizen. She fought her battles for change with great flamboyance. I particularly remember that election day in 1965 when Vivien Kellems entered a voting booth with her knitting and some candy bars, not to emerge for 9 hours in a protest against the use of party levers in voting machines.

I am a deep admirer of Vivien Kellems and of what she represented. I am glad she chose to live in my district since it gave me the opportunity to personally meet this wonderful woman.

Mr. Speaker, in tribute to Vivien Kellems, I wish to place into the RECORD an article from the New York Times of January 27 which describes the life of this great citizen.

The article follows:

VIVIEN KELLEMS, FOE OF TAX SYSTEM, DIES

LOS ANGELES, January 25.—Vivien Kellems, who battled the Federal tax system as discriminatory against single people, died early Saturday in a hospital here. She was 78 years old.

Miss Kellems, who lived in East Haddam, Conn., and spent some winters here, entered St. John's Hospital about 10 days ago, suffering from pneumonia, her personal secretary said. The cause of her death was not known immediately.

FIERY, EFFECTIVE ORATOR

In a contemplative moment during one of her widely publicized struggles with Federal tax authorities, Vivien Kellems mentioned that both her parents had been evangelistic ministers.

"I suppose," she mused, "in my case shouting about all that stinking, rotten business going on in Washington simply takes the place of shouting at the Devil."

A fiery and effective orator, the diminutive industrialist rarely made a speech without throwing in a quotation from the Bible to show which side of the argument—over the withholding tax, politics or whatever—the Lord was clearly on.

Many were the public figures, among them President ("High Tax Harry") Truman, who were singed by her fire and brimstone.

Vivien Kellems, the only girl in a family of seven children, was born June 7, 1986, in Des Moines, Iowa. The family moved to Eugene, Ore., when she was an infant. She attended public school there and later went on to the University of Oregon, where she majored in economics and earned her B.A. in 1918.

After graduation, she worked briefly as a booking agent for the West Coast Chautauqua circuit and the Florida circuit. She returned to the University of Oregon and earned a master's degree in economics in 1920.

Throughout her life, Miss Kellems repeatedly refused to discuss reports that during this period she had been married briefly and divorced.

"We don't talk about this matter, even in the family—never mention it at all," she said briskly. "Officially, I'm a spinster."

She had been engaged, though, to a young naval doctor shortly after her college graduation. He was killed when his ship was torpedoed in the Atlantic in 1918.

WENT ON LECTURE CIRCUIT

After getting her M.A., Miss Kellems entered Columbia University with the intention of earning a Ph.D., but left before completing the requirements and became a theatrical publicist. One of her first assignments was promoting Channing Pollock's "The Fool," a major success.

Later, she went on the lecture circuit, where her fees were supplemented by bonuses from producers whose plays she mentioned.

Miss Kellems's career in industry began in 1928. Her brother Edgar had invented an improved model of a woven grip used to pull cables through conduits. The grip was based on the principle of the familiar Chinese finger trap, a cylindrical mesh device that holds the victim's finger more firmly the harder he tried to pull it free.

With her brother's patent Miss Kellems obtained orders from several electrical companies in New York. On the strength of these orders, she borrowed $1,000 from a bank. Venturing another $1,000 of her own, she set up shop in a $50-a-month loft on Varick Street.

By the end of the year, the firm had a gross income of $40,000, and she paid her brother $4,000 in royalties. In the next decade, the company moved to two other Manhattan buildings, and in 1942 she moved the operation to a plant in the Saugatuck section of Westport, Conn.

Business grew when the country entered World War II. Kellems cable grips, already used extensively in the New York subway system and in the construction of the George Washington Bridge, were in great demand by naval shipyards.

In 1942, Miss Kellems embarked on the first of her numerous unsuccessful campaigns for public office, seeking the Republican nomination to represent her district in Congress. She lost in the state convention to Clare Boothe Luce, but not before the two outspoken women had exchanged bitter personal attacks that covered everything from the question of their bona fide residence to their relative sex appeal.

But it was her vendetta with tax officials that brought her nationwide fame. In December, 1943, she announced that she would not pay her Federal income tax for the last quarter of that year. As one consequence of that decision, she said, "They are still putting cold compresses on my accountant's head."

Miss Kellems contended that the Government should have permitted her to put aside a postwar reserve fund out of taxes. In any case, she argued, the graduated tax was unconstitutional, since the Constitution provides that "all duties, imposts and excises shall be uniform throughout the United States."

Henry Morgenthau Jr., then Secretary of the Treasury, responded with a statement that refusal to pay taxes in wartime "smacks of disloyalty." Without her customary flamboyance, Miss Kellems quietly brought her tax payments up to date before the next March 15.

She tangled with the Internal Revenue

Service again in 1948, after announcing that she would no longer withhold Federal income taxes from her employes' pay checks. She noted that employers were forced to act as Government tax collectors without drawing pay as Treasury agents.

She vowed not to withhold her employes' taxes until she was appointed to the job, and added: ". . . and I want a badge, too."

Miss Kellems got her employes to pay their income taxes by money order, so that they could see how much of their earnings went to Washington. Despite these payments, the Treasury appropriated $6,133 in fines from her bank account. This amount was later returned to her after a jury decided she had not acted "wilfully."

Early in 1944, Westport officials charged that Miss Kellems had set up her plant in a residential area in violation of the local zoning ordinance. But because the company was engaged in war work, no immediate action was taken.

Finally, after prolonged hearings and appeals, an injunction was granted in 1948. Miss Kellems paid a fine and moved her factory 100 miles up Long Island Sound to Stonington.

In 1950, Miss Kellems took another plunge into politics, seeking the Republican nomination for the United States Senate. Again she failed to win the support of the party organization.

SOUGHT NOMINATION

In 1954, she announced that she would run for Governor, but got nowhere. She sought the Republican nomination for the Senate again in 1956, again lost the party endorsement, launched an independent campaign but was thrown off the ballot because of "fraudulent signatures" on her nominating petitions.

She tried unsuccessfully for the Senate nomination in 1962, pledging to fight to reduce the taxes on the small businessman.

Miss Kellems drew national attention in 1965 when she staged a nine-hour sit-down in a polling booth. Her protest was against the use of party levers on voting machines, a system that made ticket-splitting illegal.

Miss Kellems had sold her company in 1962, declaring that the day of the small family-held corporation is gone. Sounding her familiar theme, she asserted:

"The Federal Government get 52 per cent of your profit in income taxes. Then you have to pay 16 other taxes out of the 48 per cent that left. A small family-owned business has nothing left to finance expansion."

In 1971 Miss Kellems, announced that she had refused again to pay Federal income taxes, on the ground that the tax laws discriminated against single persons.

In a letter to the then Treasury Secretary, John B. Connally, she billed the Government for $76,323.40, which she said represented the "illegal taxes" the Government had taken from her over a 20-year period, plus 6 per cent interest.

She told the House Ways and Means Committee in March 1973, "the 16th Amendment does not tax people—it taxes income."

"Income should be taxed without regard to the morals or marital status of the taxpayer," she told Representative James Burke.

"Don't give up your courage Vivien," Mr. Burke told her "You stand up there and fight.

GRATITUDE FOR COUNTLESS HOURS

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. RHODES. Mr. Speaker, I would like to take this opportunity to pay tribute to a long-time worker and leader in the Republican Party—Mr. Richard L. Herman—who has recently resigned as Nebraska's Republican national committeeman.

For nearly 20 years, Dick Herman has been active in Nebraska Republican politics. He has seen the party through the sunny times, and stormy days. He has been deeply committed to strengthening the two-party system. He toiled in the vineyards of local politics, up through the ranks. As vice chairman of the Arrangements Committee at the Republican National Convention in 1972 he helped put together a well-run, open convention. He has been active in party fund-raising efforts, and of immense assistance to Republican candidates up and down the line in Nebraska.

Too often, dedicated men and women, who perform the basic jobs of making our political parties work, go unsung. I would like to express, for myself, on behalf of the many appreciative Republican Party people in Nebraska, and for the Republican National Committee, our gratitude for the countless hours of work Dick Herman has donated to the party—and to the national interest over the past two decades.

GOVERNMENT BY THE PEOPLE OR GOVERNMENT BY THE UNIONS?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. ASHBROOK. Mr. Speaker, the AFL–CIO is giving top priority to passage of Federal legislation extending collective bargaining privileges to the public sector. If Congress were to approve this legislation, it would be a disaster for our Nation.

The fundamental issue is one of control. Will local governments and public institutions be controlled by the people through their elected representatives? Or will they be controlled by unions and a small group of union bosses?

Under our present framework, officials elected by the general public bear responsibility for decisions in public service and government departments. The people control their public institutions through these elected representatives. By the power of the vote, the people control the direction of their Government and their tax burden.

Public employee unions, however, would act as a private government. Key government functions such as schools, fire departments, and sanitation departments would be in the hands of private organizations unaccountable to the public. Through the collective bargaining mechanism, unions could exert a substantial influence on government and budgetary policy. Rather than the people, a clique of union bosses would control the direction of Government and the tax burden.

If the AFL-CIO succeeds in its efforts to enact public sector union legislation, there will be a fundamental change in our form of government. The people will no longer control their own local governments and public institutions. The choice is simple. Are we to have government by the people or government by the unions?

STATEMENT IN SUPPORT OF THE BILINGUAL COURTS ACT

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. ROYBAL. Mr. Speaker, I have introduced a bill, H.R. 2255 which would provide for more effective bilingual proceedings in Federal district courts of the United States, and for other purposes. Mr. EDWARDS of California and Mr. BADILLO are cosponsoring this important legislation.

This bill represents a well conceived legislative response to the difficulties experienced by many Americans who, because of language, are effectively excluded or severely handicapped in receiving equal justice through our formal legal system. These individuals, whether seeking redress of wrongs inflicted upon them or defending themselves in civil or criminal actions, are in many cases compelled to participate in legal proceedings where the language used is totally alien to them. Such a situation poses an intolerable affront to the basic notions of justice and fair play implicit in our ideal of "a nation of laws" and renders meaningless our constitutional guarantees.

It is obvious that the right to effective representation of one's interest in a court of law requires at the very minimum that a person be able to understand the language of the courtroom proceedings. The Bilingual Courts Act promises realistically to remedy the disadvantage frequently faced by our Nation's language minorities in working with the Federal court system. By making available simultaneous translation and recording of courtroom proceedings in both criminal and civil cases, Congress will have taken an important step in insuring full equality and due process before the Federal courts.

Recent census data indicates that a great number of Americans will benefit from this enlightened legislation. Of the more than 5 million Mexican-Americans living in the Southwest, many are bilingual and have only a limited ability to communicate in English. The same is true for the more than 2 million Puerto Ricans living in the United States, mostly concentrated in Northeastern States. Further, in the past decade or so more than 600,000 Cubans have emigrated to our shores, more than 40 percent of whom reside in Florida. Although the Spanish-speaking minorities account for the majority of non-English speaking persons in this country, other minorities are concentrated in various regions: Asian-Americans in California, native Americans on reservations throughout the Continental United States and Alaska, the French speaking in Maine and Louisiana, and a variety of different nationalities in Hawaii. In short, existing evidence makes clear that hundreds of thousands of Americans are critically in

need of bilingual courtroom facilities to assure equitable treatment under the law.

It is imperative that our National Government take immediate and constructive action to insure that justice is not denied these individuals in the Federal courts because of linguistic or cultural differences. To ignore this obligation would represent a callous retreat from this Nation's commitment to equality before the law for all our people. It would inevitably fuel cynicism and distrust in these minorities for our traditional legal institutions. Cynicism, fear, and distrust are the invariable by-products of a legal system which champions the rights of some while neglecting those of others. Passage of the Bilingual Courts Act would demonstrate to these groups that their Government is positively concerned with their rights and welfare and committed to ending the causes of many injustices they now suffer.

Apart from simple commonsense notions of justice and fair play, legislation mandating simultaneous translation of bilingual proceedings finds compelling support in basic individual safeguards of the Constitution. The sixth amendment guarantees that—

> In all prosecutions the accused shall enjoy the right to . . . be confronted with the witnesses against them; . . . and to have the assistance of counsel for his defense.

The fundamental rights of confrontation and counsel in criminal matters becomes little more than a cruel hoax and empty gesture to a defendant unable to comprehend the charges of his accusers or consult with counsel relative to his defense. In effect, the accused is related to a position of mindless presence in proceedings which will ultimately determine whether he is to remain a free member of society. Or as so aptly stated by the Alabama State court in *Terry* v. *State*, 21 Ala. App. 100 (1925):

> Mere confrontation of the witnesses would be useless, bordering upon the farcical, if only the accused could not hear or understand their testimony.

Only through the aid of simultaneous translation may such persons adequately communicate with the court and exercise the right to cross examine witnesses, to test their credibility, their memory, and the accuracy of their testimony against the defendant.

Similarly, the fifth amendment to the Constitution supports the application of the Bilingual Courts Act to both civil and criminal proceedings. The fifth amendment provides that—

> No person shall . . . be deprived of life, liberty, or property without due process of law.

It cannot seriously be doubted that any legal proceeding, whether civil or criminal, which places a person or his property in jeopardy without insuring understanding participation in the trial process is so devoid of basic and fundamental fairness as to be contrary to the due process clause. And civil cases, no less than criminal proceedings, threaten a person with a loss of important personal and property rights and may lead to drastic personal consequences.

Thus, the fifth amendment requires the same concern for the right of parties to both civil and criminal actions, and, in the case of the non-English speaking, must provide adequate interpretive facilities.

It may be regretted that current judicial authority fails to clearly establish a right to simultaneous translation in all Federal court proceedings. The Supreme Court has not ruled directly on the issue and lower court rulings are indecisive at best. This must not, however, deter Congress from legislating in an area where action is greatly needed.

Here, as in other issues of urgent national concern, Congress together with the courts, has the responsibility to protect individual liberties and insure that the civil rights of substantial numbers of Americans are no longer prejudiced in our courts. Although some steps have been taken to provide for interpreters in actions before Federal and State courts, these provisions generally make the appointment of an interpreter discretionary with the trial judge. (See, rule 28(b) of the Federal Rules of Criminal Procedure; 18 U.S.C. 3006 A (e); rule 43(f) of the Federal Rules of Civil Procedure.)

The U.S. Civil Rights Commission, in its 1970 report, found that the "makeshift" bilingual facilities prevailing in the courts of the Southwest were wholly inadequate to meet existing needs. In the five States surveyed by the Commission's report, for instance, only three full-time Spanish-speaking interpreters were found to be employed in the Texas courts and the other in California district courts. And even where professional interpreters were employed, they were generally criticized as being inadequately trained in legal matters for work as courtroom interpreters. Moreover, current legislation fails to establish uniform procedures for governing how bilingual facilities are to be utilized or for assuring that they are available in all cases where actually needed.

The Bilingual Courts Act proposed by H.R. 2255 represents dramatic advance over earlier congressional attempts to provide bilingual courtroom facilities and remedies many deficiencies found in existing legislation. The act clearly spells out the responsibilities of the Federal courts and standardizes procedures to insure that competent interpreters will be available upon request in cases involving non-English-speaking witnesses. First, the act provides that whenever a judge upon a motion of a party determines either that a party of the proceeding does speak and understand English with a reasonable facility or that a witness may not speak or understand English, the proceeding is to be conducted in a court equipped for the simultaneous language translation of the proceeding by an interpreter and the recording of the testimony presented to the court.

Second, the act would require the equipping of at least one courtroom in each district with facilities appropriate for recording and simultaneous translation of proceeding to and from English by electronic and other means. Third, procedures would be established under the act for determining adequate qualifications and certifications of interpreters and other necessary personnel. Finally, the term "judge" is defined to include U.S. magistrates and referees in bankruptcy so that the protections of the bill will also extend to proceedings over which these men now preside. Finally, procedures would be established under the act for determining adequate qualifications and certification of interpreters and other necessary personnel.

I am hopeful that Congress will act to meet these objectives and reaffirm its commitment to end the inequalities of our present court system in favor of the one which guarantees equal justice under law.

TWENTY-FOURTH CENTURY CLUB

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. ROUSSELOT. Mr. Speaker, it is extremely important to each Member of Congress that he be able to maintain a continuous exchange of information with his constituents. I am sure that you and our fellow colleagues are well aware that one of the most efficient ways to accomplish this is through newsletters and periodic questionnaires. It is essential that constituents be kept will informed of legislative activities and that the views and votes of their Representative be made known. Newsletters must be printed at the Member's personal expense inasmuch as there is no congressional allowance to cover these costs. I make this as a point and not as a suggestion that there should be such a congressional allowance.

The constituents in my congressional district, formerly California's 24th and now the 26th District, have been willing to support the cost of my constituent-information mailings through contributions to a trust fund maintained for this sole purpose. This account has been operating as the "Twenty-Fourth Century Club," and is established as a trust with a treasurer and an assistant treasurer acting as trustees. None of these funds are disbursed to me directly and no disbursements are made to cover any of my personal expenses. All funds are applied only to provide public information to benefit all the constituents in my congressional district. This fund does not have a political purpose, and contributions which are solicited and received are kept in an account separate from any campaign activity.

Mr. Speaker, the contributors to this trust are not a limited or exclusive group—many of the contributions to support this information program are under $10. The purposes of my newsletter program are public information. I want to declare the existence of this fund and state that the books for this account and a list of all contributors and/or participants will be fully disclosed upon request. I want this information to be made public and I am placing it in the CONGRESSIONAL RECORD for that purpose at this time. The following is a letter sent by

the chairman of the Twenty-Fourth Century Club to the entire membership with a complete statement of receipts and expenditures. The information follows:

TWENTY-FOURTH CENTURY CLUB,
Arcadia, Calif., January 27, 1975.

TO THE MEMBERS TWENTY-FOURTH CENTURY CLUB:

This organization was founded in 1973 for the purpose of funding Congressman Rousselot's Voter Information Program, of which his Washington Report is the principal increment. This will be the final report under the name of the Twenty-Fourth Century Club, since Congressman Rousselot now represents the newly created 26th Congressional District of California.

The Twenty-Fourth Century Club has operated as a public trust for the benefit of all the voters in the old 24th Congressional District of California. Mr. Joseph M. Crosby, Treasurer, and Mr. Clark J. E. Hunt, Assistant Treasurer, have been the principal trustees of Club funds. Mr. Crosby is president of California Liquid Fertilizer Company and Mr. Hunt is a California certified public accountant (retired).

Enclosed you will find a financial report for the calendar year 1974, showing receipts and disbursements as well as the funds on hand at the beginning and end of the year. As can be seen from the statement of receipts, "membership dues" have been the backbone of this program.

We are grateful to all contributors who have participated in the two-year operation of the Twenty-Fourth Century Club. In 1975 this "Trust" is being renamed the "Voter Information Program—26th District," which more clearly denotes its objectives.

Very truly yours,

DONALD E. BUTLER,
Chairman.

TWENTY-FOURTH CENTURY CLUB

FISCAL REPORT—1974

Cash on hand—Dec. 31, 1973	$8,253.68
Receipts:	
Memberships (60 @ $100 each)	6,000.00
Miscellaneous contributions	2,711.20
Interest received	160.53
Subtotal	8,871.73
Total	17,125.41
Disbursements:	
Preparation and printing of Washington Report	14,042.61
Preparation and printing of membership appeals	292.62
Miscellaneous printing	182.98
News media subscriptions	239.00
Press clipping service	246.04
Professional services and research assistants	954.39
Miscellaneous supplies and expense	428.12
	16,385.76
Cash on hand—Dec. 31, 1974	739.65

Cash on hand, December 31st

Wells Fargo—account 0616-010492	$453.20
Lincoln Savings & Loan Association Account 10-142455	286.45
Total	739.65

We certify that the above information is complete and correct for the calendar year 1974.

JOSEPH M. CROSBY,
Treasurer.
CLARK J. E. HUNT,
Assistant Treasurer.

FALLING FARM PRICES

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. TRAXLER. Mr. Speaker, farmers in Michigan's Eighth District and throughout the Nation are facing a squeeze caused by falling farm prices and rising costs, resulting in a cutback of production that can only damage consumers, the farmers themselves, and our attempts to expand export sales to ease the balance of payments crunch.

Beets, beans, dairy products, corn, wheat, and soybeans have all demonstrated highly unstable price fluctuations in the past year. Coupled with ever-rising production costs, these fluctuations cause a boom or bust pattern that threatens the well-being of our entire agricultural community.

The erratic and unstable behavior of farm prices has been caused to a large extent by recent government mismanagement of agricultural policies, which for many years were highly successful in bringing stability to agricultural markets. These tried and tested policies have in recent years been systematically dismantled and rendered useless by Secretary of Agriculture Butz, who seems to be more dedicated to the profits of large agribusiness corporations and export companies than to the interests of the family farmer and consumer. Mr. Speaker, the lead editorial in today's Washington Post says it all—it describes the problems facing American agriculture and offers what seems to be the only solution possible: a return to a level of Federal price supports high enough to insure continued farm production in a stable price structure.

The editorial also lays the blame for our agricultural problems on "a long succession of serious and obvious blunders" made by the Department of Agriculture. What it does not say is who in the Department is most responsible for these blunders, and that is Agriculture Secretary Earl Butz. Mr. Speaker, I include the editorial from today's Washington Post to be placed in the RECORD at this point:

FALLING FARM PRICES

Farm prices have now been falling for three months, tightening the dilemma of American agricultral policy. When farm prices go up consumers are hurt, and inflation at the supermarket triggers cost-of-living increases throughout the whole economy. When prices go down, farmers are hurt and begin to cut back the production on which the government is counting for export sales.

You may have gained the impression that food prices, around 1972, began behaving very differently from the way they had before in the memory of most of us. There is a reason for it. A combination of bad luck and bad policy has wrecked the system that used to stabilize American farm prices. Agricultural markets are inherently unstable, and without governmental intervention they swing wildly up and down disrupting the whole economy. Until the middle of 1972 the Department of Agriculture carried tremendous stocks of basic foodstuffs and feed grains, which it could sell off if prices began to rise unusually high. If prices began to sink unusually low, the Department gave support payments to the farmers and bought grain for the reserves. The memorable Russian wheat sale of the summer of 1972 removed at one whack most of the nation's wheat reserves. But that huge sale turned out to be only the beginning of the great surge of foreign demand for American food. It was the effect of rising wealth and rising standards of living abroad, amplified by the devaluation of the dollar.

In this country all farm prices, unrestrained by the presence of the traditional reserves, shot up. But if there was now no limit on the upward swing of the cycle, it was also true that the farmer no longer had any protection on the downward swing. The old structure of loans and payments was still legally in effect but, with the erosion inflicted by inflation, the support levels were no longer enough to cover the basic costs of production. American agriculture is again threatened by precisely the classic roller-coaster pattern of boom and bust that the whole intricate and expensive array of farm price supports were worked out in the 1930s to prevent. Farmers liked the new free-wheeling market as long as it wheels higher, but when it turns around—as it did last fall—they see their danger very clearly.

Since October the price of corn, the largest American crop, is down by almost one-fourth. Soybeans and soy meal are down more than a third. What's going on here? Take the example of wheat, which cost $1.50 a bushel until the Russians started buying it in July 1972. By this time last year, the same bushel cost nearly $6. But then, as the year went on, the price sank. The winter wheat harvest starts in late spring, and it looked like a very big harvest. By last May, the price had fallen to $3.50. With last summer's bad weather and heavy exports, supplies tightened up again and by October the price was over $5.

But instead of continuing to rise steeply until late winter, as it did last year, the price of wheat suddenly began to sink in November. It's now down to about $4. The reasons begin with consumer resistance to high prices at the grocery store, and individual shoppers' decisions to cut back on expensive meat. Most of the grain raised in this country goes, not to people, but to animals being raised for the butchers. Since late summer the meat producers have cut back sharply on the number of animals, particularly beef cattle, that they are raising for market. That, in turn, has diminished domestic demand for grain. The consumers' rebellion that started nearly two years ago has now been painfully reinforced by the recession. Cutting back on meat is, for many families, no longer a matter of choice.

Exports, meanwhile, are down a bit because the administration is at last paying attention to their effects and has been leaning on foreign buyers to take it easy. When the Soviet government tried to buy more than three million tons of grain last September, the White House intervened and suspended the sale. Subsequently it persuaded the Soviets to take a smaller amount, a little over two million tons. There appears to have been pressure, less public and formal, on other overseas buyers. Now, with the rapid decline in prices of recent months, the administration currently gives indications of changing direction enough to keep exports at last year's level.

But some of the grain producers are, predictably, pushing for unlimited exports. Last year the administration belatedly instituted a requirement for prior government approval of any significant export sale. Several of the producers' lobbies are angrily demanding an end to this procedure, on grounds that it discourages foreign shipments. But producers should have learned by now that increasing the instability of the market is no answer to their troubles. The Agriculture Department made the latest in a long suc-

cession of serious and obvious blunders yesterday when it caved in to the grain lobbies and doubled the size of shipments that can be exported without prior federal approval.

Producers and consumers together now have the strongest kind of interest in a compromise. It would mean a level of federal price supports high enough to ensure farmers of profitable operation at the very high volumes that the nation needs. It means rebuilding national stocks of grain, not only as insurance against an emergency but to dampen further inflationary increases in prices. The intolerable fluctuations were not predictable, but in retrospect the reasons are entirely comprehensible. Higher price supports would be expensive—but not nearly as expensive as the present waves of inflation at the grocery store and of panic on the farms.

JIM GROVER—A MAN FOR THESE TIMES

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. VANDER JAGT. Mr. Speaker, the Babylon Beacon of Babylon, N.Y., on January 16, 1975, editorially commented on the distinguished public service of our former House colleague from the Second Congressional District of New York, James R. "Jim" Grover, Jr.

The editorial refers to Jim's military career during World War II, his service in the New York State Assembly, and his six terms in the U.S. House of Representatives. The commentary in the Beacon appropriately alludes to his "outstanding service" and expresses the expectation that "he will again be called on to assume a role in public service."

Few things could more appropriately be in the public interest than Jim Grover's prompt return to a high, important decisionmaking post in Government service. The truth of the matter is that he should never have been allowed not to continue in the U.S. Congress. If he were a Member of the 94th Congress today he would be the ranking Republican on the Merchant Marine and Fisheries Committee and the second ranking Republican on the always important Public Works and Transportation Committee, which has become even more powerful with its assumption of legislative jurisdiction over transportation matters. His absence from the Congress constitutes a loss his constituents and his country can ill-afford.

In his tenure in the Congress, Jim Grover consistently proved himself to be a patriot of total integrity, dedicated endeavor, perceptive foresight courageous principle, and constructive compassion. He believed in his country and its freedom; he worked for the betterment and dignity of his fellow man; he stood fearlessly for equal justice and opportunity. He was a man of charity and civility. He advocated responsible citizenship, and exemplified that which he advocated. And these traits of character that he so abundantly demonstrated in public life assuredly are the hallmark of Jim Grover in private life.

Mr. Speaker, Jim Grover is a friend, a colleague, and a statesman too valuable to remain unenlisted in challenge of Government service in these critical times. While I am confident his grandchildren are delighted to have their grandfather conveniently available for romps, games, and stories, I can only say to them, "I am sorry, but America needs your grandfather in public service so as to make your country a better place—a greater nation—in which you and your wonderful generation can live and prosper."

Mr. Speaker, I will include the Babylon Beacon editorial concerning the career to date of Jim Grover at this point in the RECORD as a part of my remarks.

[From the Babylon (N.Y.) Beacon, Jan. 16, 1975]

HE SERVED US WELL

As he takes his leave of his Congressional seat this week, James R. Grover closes out a life-time of service to his country.

He has represented the 2nd Congressional District for 12 years in Congress. Before that, he served for six years in the New York State Assembly.

During World War II has was a Captain in the U.S. Air Force in the China Theatre, and spent four years in the Service.

"Jim" has also always been active in community affairs, having been a member of the Babylon School Board, American Legion Post No. 94, and numerous other civic and charitable organizations.

Born and raised in Babylon, educated in Babylon Schools, he is a graduate of Hofstra University and of Columbia Law School.

To those of us privileged to know him personally, he was always a gentleman, always cared about the people in his district, and always approached every position with dedication and energy.

Babylon Village can indeed be proud of such a man, and of the outstanding service he has rendered to his community and to his country.

Although he has been under consideration for several federal posts, his plans right now include practicing law at his local law office, spending lots of time with his lovely wife and family, and pursuing his hobbies of golf and sailing.

He certainly has earned the right to spend more of his time at home, but his experience and talents are much too valuable not to be utilized. We're sure that he will again be called on to assume a role in public service, and knowing "Jim" and his regard for his country, he will probably say "yes."

PHILIP LAMBERT

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. MITCHELL of New York. Mr. Speaker, it is my privilege today to extend my personal thanks and appreciation to an individual whose work in the field of conservation has greatly contributed to the education and preservation of our wildlife and natural resources.

Mr. Philip Lambert is well known to many in central New York where he serves as director of environmental health for the Utica field office of the New York State Department of Health. A civil engineer, Mr. Lambert is an active community leader whose efforts are geared toward the education and development of our natural resources. He is the secretary for the Oneida County Chapter of the Izaak Walton League of America and is a member of the American Public Health Association and the American Society of Civil Engineers.

Having just completed a federally funded seminar designed to encourage and invite citizen participation in the enforcement of the Federal Water Pollution Control Act, Mr. Lambert is now working to establish an environmental day camp for children.

His devotion, skill, and determination are well known to his friends and colleagues. His interest in and concern for the preservation of our environment is indeed refreshing.

A warm and competent professional, Mr. Lambert deserves our respect and gratitude.

GRATEFUL FOR AWARD

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. AMBRO. Mr. Speaker, I would like to express my gratitude for receiving an important award from the Suffolk County Historical Society—an award for which I am humbly appreciative. The citation was recently awarded to me at the Annual Luncheon of the Society in Southold, Long Island, and recalls my participation with various historical societies in projects and programs largely involved with the upcoming Bicentennial.

I make these remarks today, Mr. Speaker, not to advance the notion that I am so deserving of this award that it could not have passed to another official on Long Island, but to convey my appreciation for the work done by the members of the Suffolk County Historical Society in reminding all of our citizens about the important traditions we must keep forever fresh in the minds and hearts of all Long Islanders.

Our roots go back beyond the Colonial Days and the Revolution, long past the whaling days of the 19th century and the farm society of our forebears who produced in Huntington the genius of a Walt Whitman, to a modern day when the technological developments of this century brought homeowners to enjoy the bounties of the ocean and the Sound, and the amenities of a pleasant suburban life. All this long and colorful history has become a focal point of the Suffolk County Historical Society as it prepares to review with honor the traditions of our people.

From our old meeting houses to our modern schools, let us remember who we were, what we are, and where we are going, and prepare for the future by remembering the past.

THE CENTRAL INTELLIGENCE AGENCY

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. ARMSTRONG. Mr. Speaker, recent accusations of improper activities by Government agencies remind us all of the dangers of Big Brother Government.

The need to sharply define and limit the role of Government to prevent its unwarranted intrusion into our lives and surveillance over our activities is a matter of utmost concern to all of us. Indeed, a fear of unlimited Government has been expressed by thoughtful persons over and over again since before the founding of our Nation to the present time.

I recently read a commentary on this subject by my friend Dr. Byron Johnson of the University of Colorado. I hope every Member will take a moment to read what he has to say about our Nation's intelligence agencies. Even those who disagree with his conclusions will find Dr. Johnson's comments thought-provoking and worthwhile.

THE CENTRAL INTELLIGENCE AGENCY

(Commentary by Byron Johnson)

The growing controversy over the role and behaviour of the Central Intelligence Agency deserves a careful review of its several elements.

Obviously each of the military services has an intelligent unit, as does the State Department. The CIA was created to provide the National Security Council with an independent office "to correlate and evaluate intelligence related to the national security, and provide for the appropriate dissemination of such intelligence within the Government" U.S. Code, Title 50, Section 403(d)(3).

Both as Congressman and member of the State Department's Agency for International Development for six years, I had many occasions to appreciate the utility of that function—for each agency's own intelligence unit is unlikely to re-examine the policy positions already taken by the agency. A Central Agency can draw from many sources, and can be more independent.

Unhappily, the U.S. Code also permits the CIA "to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiency accomplished centrally."(d)(4)

This has permitted and, in time, encouraged the CIA to go into competition with the several military and civilian agency intelligence units. One must learn the hard way that the same agency cannot serve both as evaluator and competitor.

This was the first major error, permitting the CIA to be more than what its name and original purpose called for. My own evaluation of some of its personnel overseas is not inconsistent with the Gordon Liddy-type so vividly seen on TV recently. Passionate convictions about one's own competence, coupled with armoral standards, to which are added unaccountable use of virtually unlimited funds have all provided the witches brew which has corrupted almost everything it touches, like a King Midas, and now is destroying the CIA itself.

The CIA should have remained simply a coordinator, evaluator, and disseminator of intelligence as was the original intent.

The second major error was permitting CIA to be used in direct operations overseas. The Bay of Pigs was the visible public disaster that should have warned us, but the error has been visibly repeated elsewhere, in other forms as in Chile or Laos. These tragedies make clear that unchecked and supposedly secret power is inappropriate for any State, but especially inappropriate for a democracy dedicated to freedom and that freedom must include the freedom of any people to make their own mistakes.

But the most recent disclosures of domestic surveillance by the CIA must be labelled criminal behaviour, for 403(d)(3) provides explicitly "Provided, That the Agency shall have no police, subpena, law-enforcement powers, or internal security functions,"—the U.S. Code could not be clearer. The next section (e) provides than "upon written request of the Director of the CIA to the Director of the FBI that the FBI shall make available to the CIA such information for correlation, evaluation, and dissemination as may be essential to the national security." There is No excuse for CIA duplication of the legitimate functions of the FBI.

The President and the Congress must trim the CIA back to basic function to correlate, evaluate, and disseminate intelligence. Otherwise, it increases the risk of the U.S. of becoming a police state.

A police state, once it takes power, so readily intimidates citizens that we must take umbrage at the first sign of a threat to our freedom. We dare not wait until the threat reaches any one of us personally. By that time it will be too late.

Official treachery will always claim it was needed to cope with some minority found objectionable by the authorities. But the majesty of our legal system, derives from a determination almost 200 years ago to assure us and our posterity of the right to assemble peaceably, to petition for the redress of grievances, and the right to freedom of speech and press—even though the use of that freedom would occasionally outrage some of those in authority.

A government that derives its just powers from the consent of the governed has absolutely no right to tell the sovereign citizen what he can be allowed to think, say, or write.

As we approach the bi-centennial, it is time for each sovereign citizen to be re-dedicated to the first principles of the American Revolution, and not continue to permit our tax dollars to be used to subvert not only other countries, but our own, through permitting the CIA, or any other part of our government, to abuse our liberties as a free people.

LONG-TERM IMPACT OF ARMS SALES NEEDS TO BE EXAMINED

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. BINGHAM. Mr. Speaker, today the Washington Post carries a thoughtful report by Michael Getler which describes the tactical basis on which arms sales to Persian Gulf nations currently are being handled.

As Mr. Getler indicates, decisions regarding arms sales in this potential powder keg have been made without the national security studies of the possible consequences of the sales which usually precede decisions of such importance. The hard questions about the relationship of arms sales to regional stability, oil prices and supplies, and the economic crunch we are experiencing have yet to be addressed. Mr. Speaker, I urge my colleagues in the Congress and decisionmakers in the administration to examine closely the issues which Mr. Getler has raised in his analysis, which is reproduced below:

LONG-TERM IMPACT OF ARMS SALES TO PERSIAN GULF QUESTIONED

(By Michael Getler)

Booming U.S. arms sales to the Persian Gulf—a $4 billion-a-year business presided over discreetly by Secretary of State Henry A. Kissinger—are a key part of a strategy aimed at winning influence now with the oil barons of the region.

What has been sacrificed by this quest for quick influence, however, is top-level White House attention to the longer-term impact of shipping so many weapons into one of the world's most volatile areas.

"The whole thing could simply explode on us," said Ben Lee H. Hamilton (D-Ind.), chairman of the House Foreign Affairs subcommittee on the Near East and South Asia.

"We already have a couple of wars going on there, and there is a long history of hostilities and instabilities—tribal, ethnic and religious—in that part of the works," he said in an interview last week.

Saudi Arabia, he warns, is becoming suspicious and nervous over the vast U.S. military sales to neighboring Iran, though both countries are supposed to be "our friends." Small Iranian forces and arms are being used in fighting a rebellion in Oman and U.S. artillery sold to Iran is being used in Iraq where the Kurds' war against Baghdad continues.

The influx of U.S. arms to Iran is widely perceived as providing a convenient excuse for the Russians to greatly expand their arms and influence in Iraq, a situation that former Defense Secretary Melvin R. Laird has also questioned.

U.S. government officials acknowledge that neither the Nixon nor Ford administration has carried out a major, National Security Council study of where the Persian Gulf arms race might lead 10 years from now, as is usually done with crucial issues.

Instead, the decisions to sell arms to the oil giants of Iran and Saudi Arabia—and more recently to the tiny but wealthy and strategically located states of Kuwait and Oman—are viewed by aides around Kissinger as basically tactical, immediate foreign policy tools used by the secretary to bolster the U.S. hand.

Kissinger himself may well be the reason that no major study by the National Security Council staff he heads has been ordered. "He probably prefers the flexibility that comes with these tactical decisions," explains one aide, "rather than heeling to a hard policy that could come out of a study."

The Pentagon has substantial say in who gets what weapons. But it is Kissinger who is the central figure in approving all important sales.

Kissinger's pivotal role was attested to by Defense Secretary James R. Schlesinger in a Sept. 25 press conference. "I should make meticulously clear that the Department of Defense does not have its own policies with regard to the sale of arms," he said. In general, he explained, military assistance "rests under the purview of the Secretary of State. We are the administrators of such programs."

Kissinger is not the instigator of specific arms deals. But in the wake of the global oil-economic crisis that has focused sharp attention on the oil wealth and military weakness of the Persian Gulf, a convenient merger of arms, oil and related interests has taken place.

Gulf nations have shown big appetites for the most modern weapon available. Price is not an object. The United States has often shown a willingness to respond. This in turn signals U.S. military advisers or corporate salesmen overseas that they may whet Gulf

appetities even more. When the proposals reach Washington, Kissinger is the key decision maker.

Economically, it is argued that the sales help the U.S. balance of payments and recoup some of the dollars spent on higher oil prices. It keeps more people working in defense plants here and to some extent lowers the Pentagon's cost on some weapons by increasing production.

It is meant to strengthen the Shah of Iran, in particular, as the strongest and most stable pro-Western power in the region.

It is also meant to strengthen Saudi Arabia's King Faisal as the other major pro-Western leader and perhaps provide the United States with some influence in getting these two oil giants to help solve the Arab-Israeli dispute short of war.

Perhaps, White House aides argue, U.S. arms aid will soften Faisal's call for the Israelis to give up Jerusalem, for example.

Influence through arms may also assure, some say, that oil is not cutoff again or at least that prices won't rise again, though Kissinger suffered a jolt when the shah—a big U.S. arms buyer since 1972—led the charge to raise prices last year.

Even those, like Hamilton, who have serious doubts about the long-range wisdom of U.S. policy are not certain that the current approach is all wrong or that there is any better alternative at the moment than selling the oil exporters all the weapons they want.

But until the "urgent need to rethink our arms policy in that region" is begun, Hamilton suggests, there can be no certain answers to the question of whether there is a better approach.

Last month, Rep. Clarence D. Long (D-Md.), a House Appropriations Committee member, wrote to President Ford complaining that the crucial decision in mid-1972 by former President Nixon to expand arms sales to Iran greatly had been made "without national security studies of the possible consequences."

Long also complained that he twice in 1974 attempted to get details from Kissinger on "our policy commitments to Iran" and got "evasive and incomplete answers."

Even some State Department officials, who support Kissinger's approach, concede that it is hard to be sure—without a detailed study—that a vastly different approach wouldn't work.

If the United States withheld its arms and technology from Iran and Saudi Arabia, could it cause them to lower oil prices and ease the global economic crunch?

The conventional answer is that the other oil exporters in the cartel wouldn't allow it and all would rush into the eager arms of French, British and even Soviet weapons salesmen.

Yet, Iran and Saudi Arabia wield vast power within the oil cartel. American weapons and the support that goes with them are generally viewed here as superior to other nations'. While Faisal bankrolls the Egyptians to new French arms, he buys U.S. planes and ships for himself.

More importantly, the United States is vital to these nations when it comes to balancing the Soviet presence in their region.

"The question has come up," said one State Department official, "as to why the U.S. should submit to near blackmail on oil costs. I can't give you an official answer because the question hasn't been systematically addressed. Personally, I don't believe we could force a price drop, but I'm not sure I could prove it."

In the meantime, the impact of the arms sales grows in this country and in the Gulf, and there is an uneasiness, among some members of Congress and some senior planners in and out of government that the entire oil situation is uncharted and potentially very dangerous.

In this country, dozens of American firms are now producing military hardware for the Gulf, raising questions about whether, in a recession, the White House would cut back the arms flow even if it felt it should.

In fiscal 1974, the United States sold a record $8.3 billion worth of arms overseas, more than double the previous year. More than half—some $4.3 billion worth—went to the Persian Gulf: $3.7 billion to Iran, almost $600 million to the Saudis and $81 million to Kuwait.

Purchases by Iran will probably level off this year, though at a multi-billion-dollar annua level. But Saudi sales will jump, possibly to $2 billion, according to rough estimates which include money to pay for 94 American military advisers to train the Saudi National Guard.

Sales to Kuwait will escalate to about $500 million, and small, initial sales to Oman—including new TOW anti-tank missies—will be made.

Almost weekly, there are new links in the U.S. chain to the Persian Gulf.

At Bethpage, N.Y., some 2,000 workers from the Grumman Corp.—manufacturers of the U.S. Navy's new F–14 fighter—are preparing to leave for Iran to help the Iranians learn to use the 80 F–14s they have ordered. They will join more than 15,000 Americans already in Iran, more than 800 of whom are military personnel or civilians associated with arms.

Somewhere in the United States, a Navy patrol plane detachment will probably soon get orders allowing them to land for refueling on the tiny island of Masirah, off the coast of Oman. There, they will keep track of Soviet warships that might move toward the narrow openings to the Red Sea and Persian Gulf.

Kissinger is known to want U.S. reconnaissance "eyes" over these entryways to the world's oil taps, and that is behind the recent request to the British for landing rights on the island.

"My chief criticism," said Hamilton about all this, "is that our policy is focused disproportionately on the military aspects of our relations, which are important but which shouldn't be all-encompassing. I don't argue that we should cut them off completely . . . but we've taken the path of least resistance, contributing in a major way to an Iranian military build-up and making them dominant in the region.

"I'm not sure that's in our national interest," he said "or in the interests of regional cooperation."

In return for those arms, however, Iran has acted as a protector in the region, and as a surrogate for U.S. interests to an extent greater than is generally realized, according to experienced State Department officials.

Aside from the battles in Oman and Iraq, Iran is functioning as sort of a U.S. weapons warehouse. The Iranian shipped dozens of American-built F-5 fighters to Saigon in 1972 to help the United States beat the Vietnam cease-fire re-supply deadline. More recently they shipped other F-5s to Jordan, and some officials expect eventually they may be refurbishing tanks for the Pakistanis.

It is now evident, specialists say, that the shah not only wants weapons but also the technology and production line skills that could build up his industry and make him independent of the United States perhaps a decade from now.

Negotiations to allow co-production of military equipment in Iran—perhaps starting with helicopters—are already under way. The United States hopes to go slowly, but the shah, with his oil and price leverage, may force a faster pace.

What happens years from now if the United States is not independent of Persian Gulf oil needs and the shah is independent of the United States is an unanswered question.

Meanwhile, hundreds of arms salesmen from America, France, Britain and Russia continue to line up outside every defense ministry in the Persian Gulf.

It doesn't take much to persuade the shah of Iran to buy new equipment. The shah reads the U.S. trade magazine Aviation Week as carefully as he reads oil production reports and is well-informed on defense issues.

But the sheer number of U.S. military advisers and industry salesmen now in the area does worry Hamilton and others, mostly because the occasional military attache who is eager to impress the local U.S. embassy or perhaps to line up a retirement job in an aircraft company may further stimulate the easily whetted appetite for weapons among the sheiks.

The actual overseas sales proceed in many ways. For the most part, foreign countries prefer to buy from the U.S. government, to keep the United States in the act as a middleman and perhaps get better prices because the government can buy in quantity with other orders.

Orders from the Persian Gulf, in particular, are about 90 per cent government-to government sales, with the remainder direct contracts with American companies.

But no matter how the sale is proposed, if it involves arms or weapons technology by company, the U.S. government gets a look at the deal and must give its approval.

Finally, among those concerned over the arms sales question, there is the sense of unreality.

Large amounts of weapons are being sold to countries that have sharply raised oil prices, in part to acquire those arms. They are the same countries that are generally identified whether correctly or not, as the cause of the world's economic upheaval. And they have even been mildly threatened that U.S. force will be used against them.

HOW TO RATION GASOLINE

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. BROYHILL. Mr. Speaker, there has been a great deal of talk in the Halls of Congress about the need to establish a program to ration gasoline. We have heard that a rationing program is the fairest way to equalize the distribution of short gasoline supplies and that it would be more popularly accepted than an increase in the price of gasoline.

I think the most realistic analysis of the problems involved in rationing gasoline is contained in an editorial in the Washington Post which appeared on Sunday, January 26, 1975. I commend it to my colleagues for their study and consideration, and insert it in the RECORD at this point:

HOW TO RATION GASOLINE

Let us suppose, for a moment, that you are the person to whom President Ford assigns the job of designing a system to ration gasoline. The President thinks that rationing is a terrible idea and wants to cut consumption by raising prices and taxes instead. But a great many well-intentioned senators and congressmen think that rationing is much fairer. We are now going to suppose that they win the coming fight, a rationing law is enacted, and you are appointed to set up the operation. The basic program is clear. There remain only a few minor issues of policy that a sensible person like yourself have no difficulty resolving quickly and—to repeat the key word—fairly.

The first question is to whom to give ration books, and your first inclination is to give them to every licensed driver. That brings you to the family in which both parents and all three teen-aged children have licenses. If they have five ration books, the kids can continue to drive to school. You think that they ought to take the school bus, and you revoke the kids' coupons. But then you learn that they all have part-time jobs—one of them plays the xylophone in a rock band—and they will be unemployed if they can't drive. You get a call from the White House telling you not to contribute to unemployment, which is rising. You give in, and return the kids' ration books. That gives the family five times as much gas as the widow across the street whose three children are all under 16.

Continuing the crusade for fairness, you take up the case of Family A, whose harassed father has to commute 30 miles to work every day, and Family B next door, whose father runs a mail order business out of his basement. Family B goes to the beach every weekend—very inexpensively because, as the congressmen made clear, the point of rationing is to avoid raising prices. Score another point for fairness and turn to the case of two suburban communities, a mile apart, one of which has bus service to and from central city and the other of which does not. Reasonably enough, you give less gas to people in the community with buses—until you discover that none of them works in the central city. They all seem to work in other suburbs, most of which have no public transportation. Your response, obviously, is to make everyone in the United States fill out a form showing where he works. Then you hire a computer firm to identify those who can get to their jobs by public transit in less than 90 minutes with no more than three transfers; they will get fewer coupons. There are certain difficulties in enforcing these rules, as you concede to several congressional committees, but you expect to be able to handle them with the expanded appropriations that you have requested to hire more federal gas investigators.

Now that you are beginning to get the hang of the thing, you will want to proceed to the case of the salesman who flies to an airport and rents a car. If you issue gas to the rent-a-car companies, the salesman might be tempted to use one of their cars to take his family on a vacation. But the salesman's personal coupons won't cover company trips. Now you have to decide how much gasoline to give to companies, and which business trips are essential. You might turn that over to the staff that you set up to decide which delivery services are essential and how to prevent delivery trucks from being used for personal business.

By the way, you have to consider the rural poor—for example, the laborer who lives far out in the country. Some weeks he's employed far from home and commutes hundreds of miles. Some weeks he finds work nearby. Some weeks he's unemployed, particularly when the weather's bad. You post a prize for the formula to cover that one.

You are beginning to discover the great truth that simple rules are never fair, and the fairer the system gets the more complicated it has to become. Even in World War II, when there were only one-third as many cars and the national dependence on them was far less pronounced, it was necessary to set up boards of citizens in every community to rule on a flood of special requests, hardships, grievances and challenges. It is a method that requires, unfortunately, a massive invasion of personal privacy. Americans accepted it then as a temporary wartime expedient. But the present emergency is not temporary.

A year ago, when the Nixon administration was considering rationing, the planners suggested simply giving everyone the same number of coupons and letting people buy and sell them legally on a "white market," as they called it. But in a white market the laborer with the long trip to work would have to bid against the family that wants to drive its station wagon to Yosemite for its vacation. Under President Ford's price scheme, at least the country would know roughly what the increased price of fuel would be. In a white market, no one could say how high the bidding might go, or how widely it might fluctuate from one season to another.

Congress, and specifically the Democratic leadership, is behaving rather badly. Its committees have been exploring the economics and technology of energy with considerable skill for more than two years, and they understand the choices as well as the administration does. The Democratic leadership's cries for further delay now are hardly more than a plea merely to postpone unpleasant but urgent decisions. A year ago, when President Nixon asked for rationing authority, Congress said that rationing was unpopular; the law never passed. Now that President Ford proposes the other alternative, higher prices, congressmen cite polls to show that people would prefer rationing.

In the present state of general indecision, the most widely popular position is probably the one represented by Gov. Meldrim Thomson of New Hampshire. Gov. Thomson opposes both rationing and higher prices. He would prefer, evidently, simply returning to the halcyon days of 1972 before the energy squeeze took hold of us. It is a pleasant idea. But it is not, unfortunately, one of the real choices—not even for New Hampshire.

SENIORITY SYSTEM IS DYING IN THE CONGRESS

HON. PAUL S. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. SARBANES. Mr. Speaker, the proper functioning of our Federal Government depends upon our ability to achieve and maintain the vital balance defined in our Constitution in the relationship among the three coordinate branches, and particularly at this time in the relationship between the executive and the legislative. It is essential, therefore, that the Congress be fully prepared to carry out its constitutional role; that the Congress adopt principles of organization and procedure that will enable it to perform most effectively its proper legislative function.

Mr. Speaker, an editorial in the Kansas City Star recently placed the changes which have been inaugurated in the 94th Congress in this perspective. In so doing, the Star paid tribute to a Member of this House who has in the course of his distinguished career contributed notably to efforts to strengthen the ways in which the Congress conducts the Nation's business. The editorial follows:

[From the Kansas City Star, Jan. 18, 1975]

SENIORITY SYSTEM IS DYING IN THE CONGRESS

Whatever the outcome of efforts to depose venerable committee chairmen in the House of Representatives, there can be little doubt that the revolution has arrived. It really doesn't matter whether any or all of the chieftains now under attack survive. Things are not going to be the same.

The Democratic Steering Committee submitted its own nominees for four important chairmanships. The Democratic Caucus rejected two of them.

These are not really contradictory actions. The steering committee served notice that mere seniority would not be the determining factor under which it would operate. The Democratic Caucus demonstrated that it would not meekly follow the dictates of the steering committee. Thus the committee chairmen, whoever they may be, now know that they hold their jobs on the basis of performance, not longevity or influence with various leaders. The steering committee and the caucus, itself, will determine who the leaders are and who shall lead committees. It will be up in the air from one session to the next.

Some committee chairmen are senile. They hardly know what is happening and the committee is run by a trusted bureaucrat. The chairman often sleeps through hearings. Others are so erratic—a polite word—that they have been known to throw chairs at witnesses in private sessions. Some have terribly abused staff members, firing them wholesale in a fit of rage. Still others represent the narrow constituency of an industry, union or other special interests, not excluding the special interests in government. They come to identify themselves so closely with the area of government they are responsible for that they represent the area, not the people who elect them.

Under the old seniority system individuals reached the high point of arbitrary power on a committee simply through election from a safe district. Thus Wilbur Mills, through his constituency in Arkansas, was once the second most powerful man in Washington after the President. Through chairmanship of the Ways and Means Committee he controlled Democratic appointments to all other House committees, not to mention foreign trade, medical care and almost anything else he chose to involve with the Ways and Means Committee.

The seniority system has had another bad effect. How often have you, as a voter, been told, in effect, by an incumbent:

"Regardless of the merits of my opponent, you should vote for me because I am going to be a big man on the Agriculture Committee, or the Armed Services Committee, and that way I can help the district (or the state)."

That is a poor excuse to elect anyone. For the fact is that committees and their chairmen nearly always deal with the national interest, not the sometimes narrow interest of a state or district. To plead seniority and thereby committee power, is to extort votes on the basis of offering extraordinary privilege to the voters.

Experience, of course, is something else, and that ought to be part of the potential of any committee chairman. But not experience—or seniority—without ability or a sense of the common national good. Seniority is no recommendation for power, especially if it is based on the mere ability to be elected for decade after decade from a safe district.

Much of the change that now is shaking Washington became possible through years of patient advance work on the part of Rep. Richard Bolling (D-Mo.) who has been returned for many terms from Kansas City not on the grounds of servile representation but because the district recognized his national leadership. The suddenness of change comes from Watergate and the weariness of the electorate of the old way of a system that had gone wrong. But it was a cumulation of years of rot. Watergate merely broke the dam that had been jammed with many decades of abuse, poor representation and unresponsive legislation.

USE OF FOOD STAMPS BY NATION'S JOBLESS

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. DOMINICK V. DANIELS. Mr. Speaker, the January 29 edition of the New York Times contained an article that cited the growing use of food stamps by the Nation's unemployed.

Figures released by the Department of Agriculture indicate a 26-percent increase in food stamp recipients from June to December 1974. There are now 17.1 million Americans participating in this food assistance program. For the first time, most food stamp recipients are coming from the work force—those who earn low salaries or who have recently lost their jobs and are collecting unemployment insurance.

Mr. Speaker, these Americans need and deserve the food purchase assistance this program provides. In light of this compelling and growing need, it seems incongruous for the administration to be proposing food stamp price increases that will affect 95 percent of the recipients.

The House Committee on Agriculture has today initiated action on legislation to prohibit the administration's food stamp price increase proposals from going into effect on March 1. I commend the committee, under the able leadership of my colleague, Mr. FOLEY, for the initiatives it has taken on behalf of the 17 million food stamp recipients of this Nation, and I urge my colleagues to join in this vital effort.

Mr. Speaker, the article from the New York Times follows:

USE OF FOOD STAMP SOARS AS JOBLESS TURN TO THEM

(By Nancy Hicks)

WASHINGTON, January 28.—More unemployed American workers are turning to the food stamp program, so that 17.1 million people—8 per cent of the American population—are purchasing their groceries with these coupons, Department of Agriculture figures are reported to show.

The new figures, scheduled for release later this week, show that $7.50 of every $100 spent on food in this country in December was paid for by food stamps, according to sources who have seen the figures.

They also show that for the first time, most food stamp recipients are coming from the work force—those who earn low salaries or who have recently lost their jobs and are collecting unemployment insurance. Traditionally, at least 60 per cent of food stamp recipients were recipients of welfare benefits, and two of every three recipients obtained multiple benefits from various categorical aid programs, such as subsidized or public housing, Medicare or Social Security.

The December figure of 17.1 million people using food stamps was an increase of 26 per cent from the 13.5 million total of last June. In December, 1973, the total was 13 million. At last June's total, the program would cost $2.9-billion a year. At the new levels, the cost would be $4 billion a year.

The increase may not reflect the full extent of the demand for food stamps, according to Robert M. Greenstein of the Washington-based Community Nutrition Institute. Mr. Greenstein said that some communities take as long as three months to process applications and certify eligibility.

ACCURACY OF FIGURES

Royal Shipp, administrator of the food stamp program, would not confirm or deny the accuracy of the figures. "Those numbers," he said, "must be some unofficial kind of data." But they were confirmed by persons who work closely with the program and persons in Congress.

The office of Representative Thomas S. Foley, Democrat of Washington, said that its own data showed that at least 16.5 million and probably 17 million persons were enrolled in the food stamp program as of December. The total enrollment one month earlier was 15.9 million, the Foley office said.

Mr. Foley is chairman of the Agriculture Committee's livestock and grain subcommittee and would manage any legislation involving food stamp changes.

The increased enrollment comes at a time when the Administration has announced its intention of raising the purchase price of food stamps from a sliding scale, averaging 23 per cent of the participating family's net income, to a flat rate of 30 per cent a family a month.

The increase is expected to hit hardest the one-person and two-person households and the aged. At least 10 per cent of the current participants will drop out if the increases go through, Mr. Greenstein estimates.

A person with a net monthly income of $169 for instance, can now purchase $46 worth of food stamps for $33, according to the Food Research Center of New York, which filed suit last week against the increase.

The mandatory 30 per cent purchase price, scheduled to take effect March 1, would affect about 95 per cent of the recipients. The increase would raise the cost of the stamps in some cases to more than their value.

Eligibility for the stamps is determined by a formula that includes income, family size and source of income. The increase in unemployed persons using the stamps has resulted from the increase in the unemployed, not from any change in requirements under the stamp program.

The proposed increase in costs has become a target of lawsuits and Congressional criticism. Bills have been introduced in both the House and the Senate to prevent the price increase. These bills are being supported by Republicans and Democrats, liberals and conservatives.

H. John Heinz 3d, Republican of Pennsylvania, made a statement in Congress last week that summarizes much of this sentiment. He said:

"Although I am not convinced that the food stamp approach is any substitute for a reform of our inequitable and discouraging welfare system, it is the best answer we have at the moment to assure some Americans money to buy food.

"As one measure of the sign of the time, food stamp participation has grown from over 13.5 million in June to 15.1 million in October.

"The program is costly, but attempts to pare it down will only worsen conditions for many people who now live at the edge of despondency.

"Surely the Administration can find some other way to save $650-million from a budget of over $300-billion than to take it out of the pockets of the poor and aged."

The house has scheduled hearings on the pending legislation for Feb. 4, with proposed action on legislation set for the week of Feb. 17.

But Mr. Greenstein of the Community Nutrition Institute thinks that if action is delayed until that time, it may be taken too late to stave off the effects of the proposed increase.

Mr. Greenstein said he had checked with several states, and some said they would have to send out notices of the increase by the second week in February.

If people are notified of an increase, they may stop participating, even if the increase is rescinded by Congressional action, he said.

ASSEMBLY TO SAVE THE PEACE AGREEMENT

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Ms. ABZUG. Mr. Speaker, last Sunday I had the privilege of addressing the Assembly to Save the Peace Agreement. Although media coverage was scanty, it should be noted that some 3,000 people from all over the country gathered here for 3 days to protest the continuation of American involvement in Indochina.

I insert into the RECORD an excerpt from my remarks to the Assembly:

ASSEMBLY TO SAVE THE PEACE AGREEMENT

(By BELLA S. ABZUG)

I have been asked to talk about the role that the Congress will play in continuing or terminating U.S. involvement in Southeast Asia. Let me say at the outset that the role of Congress depends on you—and therefore I am tremendously encouraged to see the crowd that this Assembly has drawn. Public pressure—not Richard Nixon—got American troops out of Vietnam. Public pressure—not Gerald Ford—will get our troops out of Thailand, and our "advisers" out of South Vietnam, Cambodia and Laos, our planes out of Asian skies and our ships out of bombing range.

As you know, the present situation in Indochina is very grim. I get the feeling that we're right back where we started, some 14 years ago, with our military might poised and threatening, and the Administration coming to Congress for more money. According to reports in the New York Times, the Washington Post and elsewhere, U.S. supply planes are making ten runs a day delivering arms and ammunition to Phnom Penh to aid the Lon Nol government. One US crewman in a civilian airliner carrying government reinforcements was wounded. What if he had been killed? Why are US crewmen flying Cambodian planes anyway? Why are US planes carrying American bombs, ammunition and military equipment from Thailand to Cambodia?

Meanwhile, we have also resumed reconnaissance flights over North Vietnam—though the State Department denies that these flights are used to direct South Vietnamese air force strikes. If not that, what are they doing? Why have we resumed the flights that we specifically renounced in June 1973?

The State Department also denies that the seven warships led by the nuclear aircraft carrier Enterprise were en route to Vietnam, on January 7; or the carrier Midway on January 14. Public pressure caused Secretary Kissinger to change this plan. But these ships are still within bombing range, and Secretary of Defense Schlesinger has stated, on January 14, that "Congress . . . might well authorize the use of American force."

This is how it all began, over a decade ago. If the North Vietnamese were to shoot down a plane, and American lives were lost, the administration might well assign armed escorts to such flights, and then order "protective" strikes on anti-aircraft positions. The next step could be emergency troop landings or bombing. And we would be fighting in Indochina all over again.

The actions already taken by Secretary

Schlesinger are in direct violation of a Congressional prohibition attached to six bills, which states in essence that ". . . no funds heretofore or hereafter appropriated may be obligated or expended to finance the involvement of US military forces in hostilities in or over or from off the shores of North Vietnam, South Vietnam, Laos or Cambodia, unless specifically authorized hereafter by the Congress." They are also in violation of the Paris Peace Agreement.

Secretary Schlesinger now claims that we have the right to violate the agreement, since the North Vietnamese have violated it. Do two wrongs now make a right? I do not understand this logic.

It is now officially acknowledged that both sides have violated the Agreement almost from the moment it was signed. The Foreign Assistance Act of 1974 (P.L. 93-559, Sec. 34a) states: "The Congress finds that the cease-fire provided for in the Paris Agreement on Ending the War and Restoring Peace in Vietnam has not been observed by any of the Vietnamese parties to the conflict. Military operations of an offensive and defensive nature continue throughout South Vietnam. In Cambodia, the civil war between insurgent forces and the Lon Nol government has intensified, resulting in widespread human suffering and the virtual destruction of the Cambodian economy.

"The Congress further finds that continuation of the military struggles in South Vietnam and Cambodia are not in the interest of the parties directly engaged in the conflicts, the people of Indochina or world peace."

The section ends with recommendations that the President and Secretary of State initiate negotiations with the Soviet Union and the People's Republic of China to de-escalate military assistance to Vietnam and Cambodia, and to urge Cambodians to reach a political settlement through the United Nations. It urges compliance with the Paris Agreement, and reconvening of the Paris conference.

Yet this same Congress at the same time authorized $700 million in aid to South Vietnam, and $377 million for Cambodia. This does not bring about peace but only continues the war.

Many of us in Congress are doing our best to illustrate this. I for one, with the support of many of my colleagues, am introducing a Resolution of Inquiry, which requires the Secretary of Defense to tell the Congress within ten days the facts about the airlift to Cambodia, the ship movements, and the reconnaissance flights. We will make these facts public so that people can express their opinion. Every poll in recent years has shown that the American people are vigorously opposed to getting involved again in Asian wars—yet the Administration pushes on toward the brink.

I have also introduced into the 94th Congress H.R. 168, the only bill thus far which calls for total termination of funding or military involvement of any kind in Indochina.

It's hard to say how far this new Congress may want to go. For the 93rd Congress, it was a tremendous step to legislate an end to direct involvement and to cut funding in half. The turning point for the 93rd came, I believe, when, on July 1, 1973, we won the vote to cut off funds for the bombing of Cambodia. Until that time, despite all the bills introduced (and I for one introduced an end-the-war bill on my first day in Congress) the Members were reluctant to act. But Nixon's sudden ferocious bombing of Cambodia caused revulsion that led to revolt. By the fall of 1973, the Congress attached to several appropriation bills the provision to cut off any further funds for U.S. military involvement, and refused to authorize military aid in the amounts requested. But the prospect is more hopeful now.

The 94th Congress, as you know, is younger and bolder—and heavily Democratic. It has already challenged the old guard and won some impressive victories.

Many of the new Members won election because of their opposition to the Vietnam war; their constituents expect them to be vocal about continued funding or renewed involvement in that war. Many of the older Members have had an honest change of heart—due in large part to the tremendous educational job done by all the organizations represented at this assembly.

Other factors helping to change minds and hearts include media coverage of the war and its aftermath—the disgrace of veterans unable to find work or get decent benefits. President Ford's clemency program helped, unwittingly. As a colossal flop, it forced Members to rethink their positions, not only on the need for universal amnesty but on the morality of the war itself. And, of course, Watergate helped. When the President and his top aides lied about corruption, is there any reason to think they didn't lie about the war? Members of Congress, like everyone else, had to ask themselves some uncomfortable questions.

The leadership in both houses has now expressed unwillingness to go along with the administration's request for another $300 million for military aid to South Vietnam. I have urged the Democratic Caucus to take a firm stand against any renewed involvement or any additional money for Indochina. My feeling is that the House will uphold this position.

But I very much fear that the administration will try to interpret the War Powers Act as permitting armed intervention. When Mr. Ford says that he will go through all "constitutional and legal" processes before using force in Indochina, he is well aware that all he has to do is to "consult with Congress"—meaning the leadership—in advance of sending troops or bombs, and to "make a full report to Congress within 48 hours after committing armed forces abroad." If Congress has not declared war or specifically authorized the commitment within 60 days, the President must withdraw all troops, or extend the period for 30 days if he can certify that that is necessary.

Congress has one recourse: it can adopt a veto-proof concurrent resolution to end such action, at any stage. I can assure you that I will introduce such a resolution if it becomes necessary. One important thing to remember is that three of the Congressional prohibitions against financing the involvement of US military forces were passed after the War Powers Act. In other words, Congress made clear its intent NOT to permit new intervention in Indochina, despite the loopholes in the War Powers Act.

Some Members sincerely believe that the United States would be "abandoning an ally" if we stop supporting President Thieu. Well, it is now reported that the US government itself is about ready to scuttle Thieu in favor of someone less intransigent. If this happens, however, the government of South Vietnam will still be made-in-the-USA. And this, again, violates the Paris agreement.

Peace can come only when the people of Vietnam are allowed to determine their own destinies. But another line of argument says that Saigon would then "fall to the Communists"—even though the Third Force in Vietnam consists largely of neutral or anti-communist Buddhists, Catholics, intellectuals, students. We must remember that this is a civil war that has gone on for many years—and it is not our war. The Vietnamese must be allowed to make their own choices. We were wrong to intervene, we are wrong in fueling the war, and we would be wrong beyond belief if we tried again to impose a Western solution. The Paris Agreement recognized the fact that two governments exist in South Vietnam and that they must work out an accommodation without foreign intervention.

But China and the Soviet Union are helping North Vietnam, we hear—when in fact, aid to North Vietnam has been cut by about one-third, while US aid to South Vietnam has actually increased. Senator Kennedy has indicated that US aid of all kinds to South Vietnam (which is distributed through some 17 different bills) has amounted to some $8 billion since the signing of the Paris Agreement. That is enough to create about 500,000 public service jobs for unemployed Americans.

My constituents now are asking a very logical question: Why are we pouring all this money into Southeast Asia when our own economy is sagging and millions of Americans are out of work? What is the "vital interest" of Americans in supporting a dictator half a world away? Mr. Ford says it's partly to "raise the morale" of the South Vietnamese. I wonder if he has noticed the morale of American citizens, lately?

Members must hear this ovehwhelming demand from their constituents, before we can bring this war to a close. Even though we have a new Congress with a new mood and a new backbone, we have to know that you're out there supporting us. More power to you!

NO MORE MILITARY AID FOR INDOCHINA

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. ROSENTHAL. Mr. Speaker, I am deeply disturbed by the administration's dangerous drift toward an accelerated reinvolvement in Southeast Asia. President Ford's request for $522 million in additional military aid to Cambodia and South Vietnam, as well as reconnaissance flights over North Vietnam and reports of U.S. military and paramilitary activities in Southeast Asia all give evidence to this dangerous policy.

I am unalterably opposed to any additional military aid to that part of the world. It would only prolong the killing and destruction while contributing nothing toward peace. We must insist that the June 30, 1973, congressional prohibition against the expenditure of U.S. funds for any "combat activities by U.S. military forces in or over or from the shore of North Vietnam, South Vietnam, Laos, or Cambodia" is strictly observed.

I have joined in a lawsuit against the President and the Secretaries of State and Defense seeking a preliminary injunction against U.S. military activities in Cambodia. I have written to Secretary of State Kissinger opposing any acceleration of our involvement in Vietnam and have introduced a resolution of inquiry directing the Secretary of Defense to furnish specific information on U.S. military involvement in Southeast Asia, as well as a resolution which would put Members on record as opposing all acts of U.S. intervention in that part of the world.

Any other course would be lunacy.

IN MEMORIAM TO DR. FORREST S. CHILTON II, FOUNDER OF THE CHILTON MEMORIAL HOSPITAL, POMPTON PLAINS, N.J.

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. ROE. Mr. Speaker, on January 13, 1975, a leading citizen, distinguished humanitarian, and great American, Dr. Forrest S. Chilton II, went to his eternal rest. A lasting monument to his lifetime of good works and quality of leadership in the humanitarian field of medicine has been preserved in concrete for the benefit of future generations in the foundation of the Chilton Memorial Hospital in Pompton Plains, N.J., which his leadership built to memorialize his son, Forrest S. Chilton III, whom he lost in World War II and the sons, brothers, and fathers of other families who gave up their lives for our country in the same battle of nations.

It is, indeed, my privilege and honor to seek this congressional memoriam to him and ask, Mr. Speaker, that you and our colleagues here in the House join with me in extending our most sincere condolences to his family: His wife, the former Betty Reik; two sons, Clive and Thomas; and daughter, Mrs. Elwood "Suzanne" Harper of Pequannock, N.J.; two sisters, Mrs. Donna Manrodt and Mrs. Elfreda Lohr of Lincoln Park, N.J.; 15 grandchildren, and two great-grandchildren.

Dr. Chilton can truly be lauded and held in the highest esteem for his personal commitment, hard work, and unselfish dedication in his quest to aid mankind as a physician of many letters and humanitarian of endless energy and unending devotion. His being called to his eternal rest at the young age of 72 years culminated a lifetime scroll of good works and devotion to the needs of people with many outstanding achievements that will forever serve as an inspiration to all of us in his life's purpose and fulfillment.

He was born in Hermon, N.Y., spent his boyhood in Brooklyn, N.Y., and was a practicing physician in Pompton Plains, N.J., for 45 years prior to his retirement in 1971. He was a resident of Lehigh Acres, Fla., at the time of his passing.

Dr. Chilton was a student at New York University, a graduate of the Long Island College of Medicine and served his internship at the Bridgeport Hospital, Conn. The strength of his character and aspiration to be an integral part of the medical profession is evidenced by the fact that his education was acquired while he worked and supported his family.

His eldest son, Forrest III, had enlisted in the Army in World War II and was a pilot in the Normandy invasion when his plane was struck down. He bailed out over the English Channel but his body was never found. Forrest III was married and left an infant son, Forrest IV, who is now a captain in the U.S. Army stationed in Illinois. Dr. Chilton had also enlisted in our armed services and was stationed at the Brooklyn Naval Hospital at the time his son was killed in action off the shores of France.

In 1947 Dr. Chilton donated the original 8-acre tract of land at Newark-Pompton Turnpike, Pompton Plains, for the construction of the Chilton Memorial Hospital in memory of his son and other young men who were killed in World War II. With other leading citizens in the area he organized a board of trustees and commenced a fundraising campaign to build the hospital. The first section of the hospital opened in 1954 at a cost of a half million dollars. The health care facilities at the hospital have continued to expand and improve to the present most comprehensive medical center under the able direction of Dr. Chilton who was president of the first medical staff and most active throughout the years in the day-by-day operations of the hospital. He and his wife who he met while she was supervisor of obstetrics at Paterson General Hospital served on the Board of Trustees. Five hundred people attended a testimonial dinner in 1963 honoring his 30th year as a physician.

Dr. Chilton was a member of the First Reformed Church of Pompton Plains, Silentia Lodge 156 F. & A.M. of Butler, Araba Temple of Fort Myers, Fla., the Passaic County Medical Association, and the American Medical Association.

Mr. Speaker, I know that you and our colleagues here in the Congress will want to join with me now in silent prayer to the memory of a great man of our Nation whose unselfish devotion and dedication as a healer of the sick, benefactor, humanitarian, and American citizen have truly enriched our community, State, and Nation. May his wife and family soon find abiding comfort in the faith that God has given them and in the knowledge that Dr. Chilton is now under His eternal care. May he rest in peace.

A TRIBUTE TO RABBI MENACHEM MENDEL SCHNEERSON, THE SEVENTH LUBAVITCHER REBBE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. SOLARZ. Mr. Speaker, I would like to join with my colleague, the gentlelady from Brooklyn, in honoring Rabbi Menachem Mendel Schneerson on the occasion of the 25th anniversary of his ascension to the leadership of Chabad-Lubavitch movement.

Rabbi Schneerson, the Lubavitch Rebbe, is one of the most prominent leaders of world Jewry. He is the chief rabbi for tens of thousands of Lubavitcher Chassidism and a spiritual influence on countless other Jews around the world. A renowned scholar his ideas and pronouncements have had a great impact on Jewish thinking.

Rabbi Schneerson has been the Lubavitcher Rebbe during trying times for Jews. The Holocanst and its aftermath drove many Jews from their old surroundings. It could have also driven many more from their faith and identity. Thanks, in large part, to the Lubavitcher Rebbe that did not happen. Through his wisdom, dedication and faith, he has helped keep the Torah alive and spread its message to new generations of Jews.

There are very few men who have ever done as much for their community as Rabbi Schneerson has done for his.

KEATING HONORED BY NCAA

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. McCOLLISTER. Mr. Speaker, the self-development borne of participation in organized amateur athletes has made millions of Americans healthier of mind and body and better citizens. One outstanding example among many is that of our former colleague Bill Keating who was honored recently as one of five recipients of the National Collegiate Athletic Association's coveted Silver Anniversary Award, presented to scholar-athletes who perform with distinction in their civic activities during the 25 years following their college graduations.

All of us who have known, worked with, and learned to respect Bill Keating share in the justifiable pride he must feel in earning this great honor.

Another distinguished former Member of this House, President Gerald R. Ford, was also singled out for his contributions and awarded the NCAA's Theodore Roosevelt Award.

I include, at this point in the RECORD, an article from the Cincinnati Enquirer on the awards luncheon at which Bill Keating responded on behalf of those receiving the Silver Anniversary Award:

[From the Cincinnati Enquirer, Jan. 8, 1975]

KEATING, FORD HONORED BY NCAA

WASHINGTON.—William J. Keating, president and chief executive officer of The Cincinnati Enquirer, was one of five distinguished former student athletes Tuesday to receive the National Collegiate Athletic Association's (NCAA) "silver anniversary" award.

"Participation in sports has been the most influential factor in my life," Keating told the luncheon audience that included President Ford, who was presented the NCAA's "Theodore Roosevelt Award."

"The identity and recognition provided an opportunity that one with my background could not have otherwise received," Keating said.

Master of ceremonies Art Linkletter traced Keating's career as a star swimmer at University of Cincinnati, which nominated him for the award, through his years as assistant state attorney general, judge, Cincinnati city councilman and member of congress before assuming his post with The Enquirer.

"He is distinguished in every aspect of civic life," Linkletter said.

Silver anniversary awards went to men who wound up their college sports careers 25 years ago. Selection was based on athletic achievement, other collegiate activities and career achievement, according to the NCAA.

The NCAA also saluted "today's top five" athletes—John R. Bairounos, football, Penn-

sylvania State University; Patrick C. Haden, football, University of Southern California; Randy L. Hall, football, University of Alabama; Jarett T. Hubbard, wrestling, University of Michigan; and Tony G. Waldrop, track, University of North Carolina.

Other silver anniversary award winners were Robert S. Folsom, Southern Methodist University, investment businessman; Billy M. Jones, Vanderbilt University, now president of Memphis State University; Ralph E. O'Brien, Butler University, insurance sales; and Philip J. Ryan, Naval Academy, commander in the Navy. All but O'Brien, who starred in basketball at Butler University, were football players.

Keating, giving the response for the silver anniversary five, quipped that while President Ford may have been best known as a football star at University of Michigan, "He didn't become President until after he took up swimming." His reference was to Mr. Ford's habit until he became President of taking a daily swim in the pool at his Alexandria, Va., home.

Linkletter, a onetime San Diego State University basketball star, recalled Keating lettered four years in swimming at UC, and won top honors in the Central Collegiate Swimming Association. "He did the nation's second fastest time in the 100-yard breast stroke ... He was Indiana-Ohio breast stroke champion," he added, noting Keating also lettered one year at Purdue University and was twice president of his UC Law School class.

"Unquestionably, one reflects upon the impact athletics has upon his life," Keating said. "The discipline—the competition—the honesty of effort—the camaraderie—the lasting friendships—all that comes from participation in sports that prepares an individual for his career and develops the ability to work with and for people from all walks of life."

He added that "the sense of accomplishment from winning and the humbleness from defeat broadens each individual's experience and prepares him for the success and the adversity to be encountered in a business or professional career."

Accompanying him were his wife, Mrs. Nancy Keating, and son, Mike, a Denison University student. The Keatings have three other children at UC.

In receiving the Theodore Roosevelt Award, Mr. Ford said he and athletic directors "have a great deal in common. We both get a lot more criticism for the losses than we get credit for the wins," he said. "We both buy aspirin by the sixpack—and we both have a certain lack of permanence in our jobs."

Mr. Ford recalled that "it was once said that many of Britain's battles were won on the playing fields of Eton. We could also say that amateur athletics has developed much of the muscle that has built and defended this country ... this is a time for greatness in our nation—and a time for enthusiasm."

Such stars of the coaching world as Alabama's Bear Bryant and Ohio State University's Woody Hayes—both of whose football teams just lost bowl games—were in the audience.

BLOCKING THE 701 PLANNING FUND DEFERRAL

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1975

Mr. FRASER. Mr. Speaker, earlier this week, Gerald Christenson, director of Minnesota State Planning Agency, appeared before the HUD Appropriations Subcommittee in the House to urge support for legislation overturning the President's proposed deferral of $50 million in 701 planning assistance funds.

Mr. Christenson, who serves as the president of the Council of State Planning Agencies, explained why he felt the 701 program is significant. Christenson told the subcommittee:

We live in a world of fragmentation, fragmented decisions and fragmented programs. Existing federal grant-in-aid programs often contribute to this fragmentation. Yet we recognize the interrelationships of decisions and programs. The 701 Planning Assistance Program has allowed local elected officials to engage in an interrelated or comprehensive planning process.

Christenson urged the subcommittee to overturn the proposed funding deferral which, he said,

In the long run, will result in less efficient, more expensive government.

I would like to take this opportunity to insert Gerald Christenson's statement in the RECORD.

REMARKS OF GERALD W. CHRISTENSON

Mr. Chairman, and members of the Sub-Committee, I am Gerald Christenson, Director of the Minnesota State Planning Agency and President of the Council of State Planning Agencies. I appear here today on behalf of the National Governors' Conference to urge your prompt action to overturn the President's proposed deferral of $50 million of Planing Assistance funds, (the HUD 701 program) for Fiscal Year 1975.

These funds are used to support a comprehensive planning process, by states, metropolitan agencies, regional or areawide planning organizations, large cities and local governments. These monies have provided to elected officials—governors, mayors, and county commissioners—professional staff to assess needs, develop policies, and design programs in a comprehensive manner. The drastic reduction proposed by the President represents a serious loss in planning assistance funds to these elected officials and will hamper their ability to manage.

I would like to be more specific, so I hope you won't mind if I use Minnesota as a frequent example. But please bear in mind that much of what I say applies to other states and areas as well. In Minnesota, these planning assistance funds support the activities and staff of the State Planning Agency, the Metropolitan Council in the Minneapolis-St. Paul area, the major cities of Minneapolis, St. Paul and Duluth, the metropolitan planning agencies in Duluth-Superior, Rochester, St. Cloud, and Fargo-Moorhead, and regional development commissions in each of the 12 regions in Minnesota. In all, 21 organizations in Minnesota are affected by the availability of HUD 701 Planning Assistance funds. Every level of government, every citizen, benefits from the value of this program. Every citizen in Minnesota would be affected by the proposed deferral.

Let me identify for you a few of the reasons why your action on this deferral is so important. I am sure that I speak for other State Planning Directors and for Governors.

We live in a world of fragmentation; fragmented decisions and fragmented programs. Existing federal grant-in-aid programs often contribute to this fragmentation. Yet we recognize the interrelationships of decisions and programs. The 701 Planning Assistance Program has allowed local elected officials to engage in an interrelated or comprehensive planning process. Let me give you an example. There is a consensus in our state that rational development in rural Minnesota would provide better job opportunities for our young people and improve economic conditions. But such development in rural Minnesota will depend on a wide variety of interrelated factors. Private market conditions, the availability of transportation, housing, health care, vocational-technical and college institutions, and policies relating to taxes, school financing, environmental protection and economic development. In Minnesota the responsibility for carefully planning for rural development, somehow integrating these diverse policies, rests with the Governor, the Legislature and regional development commissions. Planning assistance funds have allowed us to make a significant beginning in planning such development on a sound basis.

We are in a period in which public confidence in government has been sorely shaken. We are entering a period, in which more than ever before, governments and public officials must renew that public confidence. They can do that best by demonstrating that they are willing and have the knowledge and the skills to deal effectively with complex problems. If state and local governments are to respond effectively to the problems of a deteriorating economy, high unemployment, energy shortages, housing, environmental protection and human services integration, then their planning efforts must be strengthened and increased, not weakened or eliminated.

Minnesota has made progress in establishing area-wide or regional planning. Regional development commissions have now been formed in each region of our state. These regional development commissions represent the beginning of a successful effort by local governments to work together to plan those services which they, as local governments, could not provide themselves. The 701 Planning Assistance funds have provided the initial financial support. To remove that financial support at this critical stage in the development of these regional development commissions, would be a serious setback.

Last year the Congress passed an important piece of legislation, the Housing and Community Development Act. That Act requires local governments to prepare a community development plan. The problem of housing is a most serious one in Minnesota. Over the next ten years, it is expected that 240,000 additional families will enter the housing market in our state. During this period, in order to meet the demands created by new families and to replace substandard units, Minnesota must double the number of new housing units produced during the best years the Minnesota housing industry has ever had.

Community development and housing are difficult issues for states and local governments. They require careful planning and sound decisions. 701 Planning Assistance means to examine the complexities of housing and community development. To remove that support at this time, when housing is so critical a problem, could seriously impair the abilities of state and local governments to move ahead in meeting these needs.

Federal grants-in-aid have become a major factor in the financing of state and local government services. In Minnesota, for fiscal year 1974, the state received $864 million from 90 major programs and an almost limitless number of specific grants. Bureau of the Budget Circular A–95 provides, to State Planning Agencies and to regional and local planning agencies, the option of reviewing and commenting on these applications to insure coordination and consistency with state objectives and priorities.

This is an important function, not only for state and local governments, but for federal agencies as well. It helps to insure that federal grants-in-aid applications are properly prepared, are not duplicating one another, that accurate information is used, and that they represent the concerns and objectives of the state or local government.

Yet there is no financial support for this program, except from the HUD 701 Planning Assistance funds. Many governors and mayors use this responsibility to review applications for federal grant-in-aid to enable them to manage this diverse fragmented system of federal grants. Planning assistance funds makes that possible for them. Our federal system and the success of the federal grant-in-aid program will suffer if elected officials are forced to forego this function due to lack of funds.

Many states and some local governments now understand the importance of land use planning and have begun the process of conducting a land use planning process. In many instances this has taken place with HUD planning funds. Certainly in Minnesota this is the case. Although Minnesota has now enacted legislation to deal with land use and has appropriated monies for specific land use planning activities, the State Planning Agency, the Metropolitan Council in Minneapolis-St. Paul, and the 12 Regional Development Commissions in Minnesota are all counting on the availability of HUD 701 planning monies to allow them to continue their comprehensive land use activities.

Finally, monies made available from this planning program to the State Planning Agency have enabled us to acquire a competent staff to provide technical assistance to local and regional governments, to help them establish an effective planning program, to help them manage, and to provide them with information, such as population estimates and forecasts. If the President's deferral is allowed to stand, we would no longer be in a position to provide a satisfactory level of technical assistance as we have in the past.

I, along with other planning officials throughout the nation, have strongly urged a strengthening of the HUD 701 Planning Assistance program. We have also urged that the financial support to state, regional and local planning agencies be so appropriated and allocated as to provide some assured continuity of support. It was our understanding, with the passage of the Housing and Community Development Act of 1974, that the Congress had expressed itself; that the Congress had seen the need for supporting such planning programs at authorization levels of $130 million for F.Y. 1975 and $150 million for F.Y. 1976. Positive action by this committee would be evidence that the Congress had not changed its mind on the need for this valuable program.

I do not believe that this deferral is a true savings of funds. I believe it will result in less effective government. I hope that this sub-committee and the Congress will defeat actions which, in the long run, will result in less efficient, more expensive government.

HOUSE OF REPRESENTATIVES—*Friday, January 31, 1975*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore, Mr. MCFALL.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
January 31, 1975.

I hereby designate the Honorable JOHN J. MCFALL to act as Speaker pro tempore today.

CARL ALBERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He went about doing good . . . for God was with him.—Acts 10: 38.

O God, our Father, in a world moving through the darkness of doubt and despair, we pause before Thee to make sure the light within us is burning brightly. May our faith in Thee make us strong, hold us steady, and keep us serene as we face the responsibilities of these days. Give us to know that Thou art always with us every moment of every day.

Bless Thou the people of our beloved Republic. Amid all differences may they be one in spirit, one in purpose, and one in good will as together they and we seek solutions to the problems that confront us. Keep us living and laboring and loving for the good of all.

In the spirit of Him who went about doing good we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore (Mr. MCFALL). 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.

APPOINTMENT AS MEMBERS OF JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS

The SPEAKER pro tempore. Pursuant to the provisions of section 401(b), title 4, Public Law 91–510, the Chair desires to announce that the Speaker has appointed as members of the Joint Committee on Congressional Operations the following Members on the part of the House: The gentleman from Texas (Mr. BROOKS), the gentleman from Connecticut (Mr. GIAIMO), the gentleman from Michigan (Mr. O'HARA), the gentleman from New Hampshire (Mr. CLEVELAND), and the gentleman from Ohio (Mr. ASHBROOK).

APPOINTMENT AS MEMBERS OF NATIONAL STUDY COMMISSION UNDER THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

The SPEAKER pro tempore. Pursuant to the provisions of section 2, Public Law 92–500, the Chair desires to announce that the Speaker has appointed as members of the National Study Commission under the Federal Water Pollution Control Act Amendments of 1972 the following Members on the part of the House: The gentleman from Alabama (Mr. JONES), the gentleman from Texas (Mr. WRIGHT), the gentleman from California (Mr. JOHNSON), the gentleman from Ohio (Mr. HARSHA), and the gentleman from New Hampshire (Mr. CLEVELAND).

APPOINTMENT AS OFFICIAL ADVISERS TO UNITED STATES DELEGATIONS RELATING TO TRADE AGREEMENTS

The SPEAKER pro tempore. The Chair desires to announce that pursuant to the provisions of section 161(a), title I, Public Law 93–618, and upon recommendation of the chairman of the Committee on Ways and Means, the Speaker has selected the following members of that committee, to be accredited by the President, as official advisers to the U.S. delegations to international conferences, meetings, and negotiation sessions relating to trade agreements during the 1st session of the 94th Congress: The gentleman from Georgia (Mr. LANDRUM), the gentleman from Pennsylvania (Mr. GREEN), the gentleman from Florida (Mr. GIBBONS), the gentleman from New York (Mr. CONABLE), and the gentleman from California (Mr. PETTIS).

REPORT ON OMNIBUS ENERGY BILL—COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following communication from the President of the United States; which was read, the summary, without objection, ordered to be printed in the RECORD:

THE WHITE HOUSE,
Washington, January 30, 1975.

The Honorable the SPEAKER,
U.S. House of Representatives,
Washington, D.C. 20515

DEAR MR. SPEAKER: In my state of the Union address earlier this month, I outlined the dimensions of our interrelated economic and energy problems and proposed comprehensive and far-reaching measures for their solution.

The measures I described included both Executive and Congressional actions. Because further delay is intolerable, I have already taken administrative action to deal with our energy problems, including issuance of a proclamation to impose increased fees on imported oil. The Secretary of the Treasury has already presented my detailed energy tax proposals to the House Ways and Means Committee.

I am enclosing a proposed omnibus energy bill—the Energy Independence Act of 1975—which, along with the tax proposals already presented, will provide the combined authorities that are necessary if we are to deal seriously and effectively with the Nation's pressing energy problems.

We have delayed too long in taking decisive actions to reduce our dependence on foreign energy sources and to eliminate our vulnerability to energy disrup-