DISNEYLAND NOW 20 YEARS OLD

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1975

Mr. ANDERSON of California. Mr. Speaker, it was 20 years ago that a now-famous amusement park first opened in Anaheim, Calif. Today, Disneyland is probably the most famous amusement park in the world. Almost 140 million guests have enjoyed Disneyland's fantastic variety of attractions since it opened in 1955.

Disneyland is not only a highly successful and imaginative business venture: it is also a monument to Walt Disney, the man who conceived of the original plan and made it a reality. Even though he passed away 9 years ago, his creation has continued to grow, adding new attractions for the enjoyment of its guests.

Disneyland is not just a "must" attraction for the many visitors who come to southern California. It is also a year round source of family enjoyment to those of us fortunate enough to live nearby.

At this time, I would like to introduce the following article from the Los Angeles Enterprise into the RECORD, as it gives an excellent summary of the history of "The Magic Kingdom."

140 MILLION GUESTS: DISNEYLAND CELEBRATES 20TH YEAR OF MAGIC

It may come as a surprise to some, but Disneyland is no longer a teenager. In fact the world famous "theme" park, one of Walt Disney's most ambitious creations, celebrated its 20th birthday last week.

As Disneyland completes a second decade of operation nearly 140 million guests have visited the Park since opening day in 1955. Total investment for the undertaking has grown from $17 million to more than $150 million.

Plans for the amusement park took shape in Disney's mind 20 years before actual construction began and involved land next to the Disney studios in Burbank.

During those early years, when the idea was still a dream, Disney spent most of his free time visiting various parks and "kiddie lands" with his wife and two daughters. He never let go of a desire to create a place of fantasy where grownups as well as children could enjoy themselves.

In 1954 the company finally settled on buying a site for Disneyland. It was 244 acres made up mostly of orange groves in the sleepy community of Anaheim. "I needed flat land that I could shape up," Disney said.

Building the Park presented demanding challenges for the Disney team. Entirely new concepts of construction had to be developed. Landscapers were called upon to create jungles and forests, as well as river banks and immaculate flower beds.

Carpenters and painters along with hundreds of craftsmen, from dozens of trades, toiled to complete a circa 1900 town featuring a City Hall, Opera House, Train Station, Town Square and many stores, shops and restaurants.

"Imagineers" at WED Enterprises, Disney's new design and engineering firm, went to work making elephants that could fly, tea cups you could sit in and spin, along with ships that also flew through the air in Peter Pan's Flight.

Wild animals had to be fashioned for an exciting Jungle Cruise adventure, a "modern" freeway of the future was laid out in Tomorrowland called the Autopia, while at the same time Indian villages, a fort and settler's cabin were sprouting up along the banks of the "Rivers of America."

As each obstacle was overcome Disneyland began to become a reality after more than 20 years of dreaming. Disney's flat orange groves were indeed shaping up.

Getting the Park ready for opening day was not easy and when some 30,000 invited guests entered for their first look things were not exactly just right. The hot dogs and soft drinks ran out, trash piled up faster than it could be picked up, and restrooms were at a premium.

However, Disney immediately went to work creating his own staff of special experts to handle the Park and during the first year of operation 3,800,000 visitors had flocked into Disneyland.

Disney has again accomplished the "impossible" in spite of the many who doubted he would be successful, and they were always there. Hollywood producers in the 1930's told Disney he was making his biggest mistake by trying to make a full-length cartoon feature—they were talking about "Snow White and the Seven Dwarfs."

Some businessmen and bankers in 1954 told Disney his idea for a $17 million amusement park would be his biggest mistake—as it turns out, the Park is one of his greatest accomplishments.

Disneyland's fantastic growth over the years is almost common knowledge throughout the world. The Park now boasts more than 50 major attractions and adventures, from an original 22.

One of the basic reasons Disneyland continues to grow and change, while remaining unique, is that Disney took literally what he said on opening day. "Disneyland will never be completed as long as there is imagination left in the world."

This well-worn quote was thought of then as a nice bit of sentiment. Today, nine years after Disney's death, it has proved to be one of the most positive motivations behind the Disney organization.

SENATE—*Wednesday, September 24, 1975*

(Legislative day of Thursday, September 11, 1975)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

O God, our Father, to whom all hearts are open and from whom no secrets are hid, deliver us this day from all that would keep us from serving Thee and from serving our fellow man as we ought. Deliver us from coldness of heart, from weakness of will, from narrowness of mind, from weariness of spirit. Help us in the struggle of these contentious times "to put on the whole armor of God . . . to take the shield of faith, and the helmet of salvation and the sword of the Spirit which is the Word of God" that we may ever stand for truth and righteousness in the higher order of Thy kingdom.

We pray in the Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, September 23, 1975, be approved.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ENOUGH, MR. PRESIDENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a commentary by Mr. James Wieghart, appearing in the New York Daily News of the 24th of September, this year, entitled "What Can Good People Do to Protect the President?", and also an editorial in the Baltimore Sun, entitled "Enough, Mr. President," written, I believe, by the editorial page editor, our old friend, J. R. L. Sterne, be printed in the RECORD under the heading "Enough, Mr. President."

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

[From the New York Daily News, Sept. 24, 1975]

WHAT CAN GOOD PEOPLE DO TO PROTECT THE PRESIDENT?

(By James Wieghart)

WASHINGTON, Sept. 23.—It should be abundantly clear by now, after three attempts on President Ford's life within the past 17 days, that keeping a President alive and well in these United States in 1975 is no easy task.

This is so even though Ford is undoubtedly right in his assessment that the overwhelming number of Americans are "good people" and the "wrong element . . . who want to destroy everything that's best about America" consist of only a "infinitesimal" percentage of the population.

So the real question boils down to this—what can the "Good people" do to protect the President from harm at the hands of this infinitesimally small percentage of nuts, cranks, haters, revolutionaries and others who fall into the category of would-be assassins? And how can this be done without doing violence to the Constitutional freedoms that are accorded to us all, the "good people" and the "wrong elements?"

A good place to start would be with Ford himself. Is it really necessary, with more than a year to go before the 1976 election, for him to carry on such a heavy political travel schedule?

In little over one year in office Ford has already traveled more than 80,000 miles across 39 states at home and 45,554 miles

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abroad, including two trips to Europe and one to Asia. In addition, Ford plans almost weekly trips to virtually every part of the country for the rest of this year and is also firming up plans for a two-week trip to Red China, Southeast Asia, Australia and New Zealand next month.

While nobody wants Ford to be "a hostage in the Oval Office," surely there is a safer middle ground between no travel and perpetual motion. And on those trips that Ford considers absolutely essential, it might be wise, at least until emotions calm a bit, for him to call a halt to his usual practice of wading into crowds to "press the flesh."

Secondly, it might not hurt the Secret Service to do some deep soul-searching to determine whether any of its protective procedures need modification in view of the two near-misses in California and the still unidentified man with the gun who stalked Ford in St. Louis on Sept. 12.

Without, questioning for one moment the dedication, courage and professionalism of the Secret Service, one can sensibly ask why Lynette (Squeaky) Fromme was not questioned and placed under surveillance on the eve of Ford's visit to Sacramento, even though her connection with Charles Manson and his cult of violence were common knowledge. One can also ask why Sara Jane Moore was out in front of the St. Francis Hotel in San Francisco when she had been questioned by the Secret Service was caught with a gun only the day before, and even asked to be arrested.

The Secret Service's record of protecting presidents is not so good that it can relax its guard, what with the assassination of John F. Kennedy in 1963 and the shooting of Alabama Gov. George Wallace during the 1972 campaign. Thus far, the Service's record on Ford is good, but the President's guards were greatly aided by the fact that Miss Fromme apparently didn't know how to operate her Colt .45 automatic and that Mrs. Moore was unable to purchase real bullets for her .38 and had to use hot wadding target cartridges.

And finally (and gingerly) there is a need for the nation's press to examine its own conscience. There is no question about the news value and public interest in revolutionaries like Patty Hearst and would-be political assassins like Squeaky Fromme and Sara Moore.

It doesn't take a psychologist to figure out that by putting their pictures on TV and on the covers of national magazines and newspapers and carrying sensational accounts of their exploits, the nation's news media might be inadvertently encouraging other alienated or unbalanced people to seek similar notoriety by emulating them.

Nor does it make the Secret Service's Presidential protection job any easier when the President's travel plans are publicized in detail weeks in advance or when security precautions, like the fact that Ford wore a bullet-proof vest in New Hampshire, are given widespread coverage. This list of what some of the "good Americans" can do to help protect the President, is, of course, not complete. But perhaps it is a start.

[From the Baltimore Sun, Sept. 24, 1975]

ENOUGH, MR. PRESIDENT

The time has come again, Mr. President, for "a little straight talk among friends." You used that phrase in your first address as President, an address in which you declared with considerable prescience that the "long national nightmare (of Watergate) is over." Now, we are going to give you a little straight talk. We are going to tell you that we don't want to recover from the Watergate nightmare only to go through the nightmare of another presidential assassination. Not only do we like you and your family but we selfishly don't want our country to go through another period of hurt and upheaval.

You are a courageous man. You don't have to prove that to us by exposing yourself to every crank with a gun. You are a man who believes deeply in an open dialogue between a President and the citizens of a free society. But surely the essence of American democracy does not depend on your plunging recklessly into crowds where some twisted individual awaits her or his instant of notoriety. You have a deep responsibility to take care of yourself, and to maintain a continuity in the presidency as we await next year's election results.

Let's be frank. You are already a candidate. You are intent on proving for all time that the nation's first unelected President can become an elected President. But your life has now been spared twice, with strong elements of luck both times. Don't press that luck. Don't cling to the campaigning habits of a Grand Rapids congressman on the creamed chicken circuit. Don't think you will get a mandate from the people by shaking ten thousand hands, by making ten hundred stump speeches, by risking ten bullets. If you are to be elected in November, 1976, it will be because you have shown yourself to be a man of probity and sound policy—qualities that will be demonstrated not by mindless politicking but by sound performance.

Our advice, among friends, is that you reduce your public appearances especially during the immediate future, when guns will be coming out of the woodwork after the stimulation of two assassination attempts in 17 days. This is not "cowering" (to use your word). It is not isolating the presidency from the people. In one good television address, when you have something of substance to tell the people, you can reach more voters than in a year of frenetic exposure to the arsenal of guns plaguing this country. A curtailment of your campaigning would not be half as damaging to democracy as the spectacle of mass preventive arrests of "dangerous persons" in advance of a presidential visit.

You say you want to "stand tall and strong" as President. We want you to stand tall and strong. And you will not be standing tall and strong if you are cut down by an assassin. In your first presidential speech to the Congress, you said you were no longer your "own man" but had become the "people's man." Please remember those words. Please keep in mind that accepting the presidency deeply obligated you to preserve yourself to serve the American people in the nation's greatest office.

THE IMPACT OF THE AMENDMENTS OF SENATORS BIDEN AND ROBERT C. BYRD

Mr. HUGH SCOTT. Mr. President, at my request the U.S. Commission on Civil Rights has prepared a statement on the impact of the Biden and Byrd of West Virginia amendments. I ask unanimous consent that a letter to me from the Chairman of the U.S. Commission on Civil Rights, Arthur S. Flemming, which contains this analysis be printed in the RECORD.

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

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, D.C., September 23, 1975.

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

DEAR SENATOR SCOTT: This is in response to your request for the views of the United States Commission on Civil Rights with respect to the Biden Amendment and the Byrd Amendment to H.R. 8069 which provides appropriations for the Department of Labor and the Department of Health, Education, and Welfare.

The Biden Amendment, as we understand it, would deny to the Department of Health, Education, and Welfare the use of funds appropriated under H.R. 8069 to exercise its authority under Title VI of the Civil Rights Act of 1964. The Biden Amendment states:

None of the funds appropriated under this act shall be used to require any school, school system, or other educational institution as a condition for receiving funds, grants, or other benefits from the federal government to assign teachers or students to schools, classes, or courses for reasons of color.

The Commission on Civil Rights has consistently opposed all legislative initiatives in the area of school desegregation designed to weaken in any way the rights of citizens under the 14th Amendment to the Constitution as interpreted by the United States Supreme Court in the matter of *Brown vs. Board of Education*. The Biden Amendment is unquestionably the most sweeping attack on a civil rights act passed by the Senate in recent years.

The Biden Amendment, which is probably unconstitutional, would render impotent the enforcement efforts of the Department of Health, Education, and Welfare by making Title VI virtually inoperable in the area of school desegregation. Such an amendment if enacted into law would thrust upon an already overburdened judiciary the full burden of desegregating the schools of the nation, an unnecessary burden which Title VI was designed to avoid through the use of administrative procedures.

The Byrd Amendment, as we understand it, would, if enacted, have the purpose and effect of severely limiting the ability of the Department of Health, Education, and Welfare to desegregate the public schools by prohibiting the Department from requiring students to attend any school other than that nearest their homes. The Byrd Amendment states that:

None of the funds appropriated by this act shall be expended to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest to the student's home, and which offers the courses of study pursued by such student, in order to comply with Title VI of the Civil Rights Act of 1964.

This Commission has previously stated in testimony before committees of the Congress that while no parents have an absolute right to send their children to the school nearest to their home, the government does have the responsibility to protect the constitutional rights of all school children as defined by the United States Supreme Court.

By limiting a remedy to school segregation by prohibiting the assignment of students to any but the nearest school is no remedy at all. The effect of such a restriction on HEW could, and in many cases would, lock minority students to attendance only at unconstitutionally segregated schools inasmuch as many school districts have deliberately constructed and maintained schools in such a way as to create and perpetuate segregation. As the Supreme Court noted in the case of *Swann vs. Charlotte-Mecklenburg*, the siting, initial construction, expansion and closing of school facilities ". . . have been used as a potent weapon for creating and maintaining a state segregated system". The Byrd Amendment is little more than an effort to reinstate the separate but equal doctrine under which constitutional rights of minority school children were denied for more than half a century.

Further, it is unclear as to whether this amendment would deny to a school district ordered to desegregate by a Federal court, funds appropriated under this act to effect the transition from an unconstitutional dual

school system to a unitary one. Because the amendment uses the phrase "directly or indirectly", the Department could be placed in a position where compliance with the statute would require defiance of the court's order to desegregate using Federal financial assistance, e.g. Title IV funds, ESAA funds, etc.

It is our view that by doing violence to Title VI in the area of school desegregation as both these Amendments do, the Congress would not only restrict the Department of Health, Education, and Welfare from carrying out a constitutional responsibility but it would also be opening the door to attacks on every piece of civil rights legislation enacted since 1957. We, therefore, oppose the enactment of both the Biden and the Byrd Amendments.

Respectfully,

ARTHUR S. FLEMMING,
Chairman,
(For the Commissioners).

Mr. HUGH SCOTT. Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 5 minutes.

HANK PRICE

Mr. WEICKER. Mr. President, my friend, Hank Price, died the other day.

We met in 1965 at the Capitol in Hartford. I was a legislator. He is a political reporter and columnist.

Then, in 1968 just as security made its way into Hank's life in the form of a managing editor's position, I asked him to be press secretary for my quest of Connecticut's 4th Congressional District seat. He threw security to the winds and we started down the campaign trail of 1968.

There follow some memories that flashed across my mind when I heard that Hank had passed away suddenly in Chicago at age 45.

With Price on the scene, Brooklyn came to Greenwich, Darien, and New Canaan.

Thanks to Hank this Republican met humanity in un-Republican places such as gin mills, back yards, public beaches, and bowling alleys.

His press releases were not Wall Street Journal, they were Daily News.

Price the ex-political reporter "didn't want no bull" from his candidate, "just da trut."

He loved Bridgeport and showed it to his Republican friend, not as a Democratic stronghold but as a gathering of very solid, warm people.

When as a nothing I could not ride in the Darien Festival Parade it was Hank who took the campaign to the sidewalks where the people, and the votes, were.

There was Hank Price, the pitchman, wrestling the toughest imaginary jar lid in the world with a Weicker jar opener—and getting a vote.

No IBM selectrics or secretaries just Hank, portable typewriter in his lap, banging out the release.

Then victory and two turbulent, overcrowded years in the House of Representatives. Hank the editor back at work. Only this time working on a newsletter rather than a newspaper.

Hank Price and Carey Cronan. What friends.

Hank Price and Dick McGowan. What friends.

People talk about a free press. Hank Price and friends were a human press. That is also important.

The Capitol Hill version of "Upstairs, Downstairs." Hank Price and his army of cockroaches (I hear 'em marchin', Hank) in the basement with the Congressman above.

Chewed out for oversleeping, Hank roars out of the house upon hearing the footsteps of his boss. Not realizing until actually in the Longworth Building at 5 a.m. that the Congressman had been coming in to bed—not going out to work.

Hank Price throwing security to the winds again and urging LOWELL WEICKER not to hold the safe House seat but to run for the Senate.

Another campaign but different. A whole State. There hardly seemed time to get from one town to another, never mind one tavern to another. And so victory came but it was no longer two "let the dice roll" companions. It was Senator and press secretary and both envied the past over power present.

Hank was a great press secretary to a Senator but after 4 years he was not going to let the office life bury the reporter or free spirit. And so off to the Bureau of Narcotics and Dangerous Drugs.

That event, not his death, closed a very special and wonderful chapter in my life. There was a humanity and rough hewn gentleness in Hank Price's professionalism and politics. To say he was a rarity in this country would not be true. What was so great for me was that Hank Price is America. And that beats anything—even being a Senator.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

RESOLUTION ON U.S. AGREEMENTS, UNDERSTANDINGS, AND COMMITMENTS WITH RESPECT TO ISRAEL AND EGYPT—SENATE RESOLUTION 245

ADDITIONAL COSPONSORS

Mr. HASKELL. Mr. President, a week ago today the distinguished Senator from Oregon (Mr. HATFIELD) and I introduced a resolution expressing the sense of the Senate that the President make all agreements, understandings, and commitments involved in the Sinai matter a matter of public record. That resolution was referred to the Committee on Foreign Relations. I ask unanimous consent to have added as cosponsors of that resolution the names of the distinguished Senator from South Dakota (Mr. ABOUREZK) and the distinguished Senator from California (Mr. CRANSTON).

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

Mr. HASKELL. I point out that both of those Senators wrote articles for the Washington Post which appeared yesterday. One of the Senators, based upon the knowledge that he then had of the agreements, was for them. The other Senator was opposed.

It seems to me that this demonstrates that even those who have taken positions on the so-called Sinai settlement feel that this matter must be of public record, and I think it is quite significant that those two Senators with opposing views both cosponsor the resolution.

Moreover, Mr. President, I observed in the CONGRESSIONAL RECORD that the distinguished Senator from North Carolina (Mr. HELMS) made a statement on this floor yesterday in effect expressing the need for public airing, to focus the eyes of the public on whatever these agreements are. We do not know what they are.

So, with that, I simply ask unanimous consent that the names of Senators ABOUREZK and CRANSTON be added as cosponsors of Senate Resolution 245.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. HASKELL. I yield to the distinguished Senator from Virginia.

Mr. WILLIAM L. SCOTT. I have not seen the Senator's resolution, and do not know the content of it. I entered the Chamber during the time he was discussing the resolution.

As I take it, the Senator is talking about the public generally knowing the content of all agreements reached with regard to the interim peace settlement in the Middle East.

Mr. HASKELL. The Senator is correct. The resolution would ask that the President make public all agreements, understandings, and commitments entered into by the United States involving the Sinai settlement. Presumably that is just between Egypt and Israel.

Mr. WILLIAM L. SCOTT. Let me say to the Senator that while I favor as wide a dissemination of information such as this to the general public as is possible consistent with our national defense interests, there may be matters that I would feel should not be made available to the general public, but at the same time they should be made available to the Members of the Senate and the Members of the House of Representatives.

I do not like this concept of us trying to make a decision without knowing all the facts. It seems unreasonable to ask Senators to ratify a portion of an agreement, but not furnish them with a full account, not let them know every phase of an agreement.

I am going to vote against this type of procedure. During an executive session, I indicated to the Secretary that if he did not make complete information available to the members of the Committee on Armed Services I was going to make a statement to the effect that I felt that

he was not doing what he should do. How can we pass on something when we do not have all of the facts? He indicated that he had the legal adviser to the Department of State look over all of these documents, and he did make available to the chairman and to the ranking Republican on the Committee on Foreign Relations the total information as edited by his chief legal adviser. Then he made available to all members of the Committee on Foreign Relations the matters that related directly to the United States. But, of course, that was a decision by his lawyer, the lawyer for the Department of State. We were told that if we wanted to go to the Committee on Foreign Relations and ask to look at these documents that were made available to all of the Members but those shown to the chairman and the ranking Republican had not been left with the committee and would not be available to other Senators.

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

Mr. WILLIAM L. SCOTT. The Secretary said what was made available to the chairman and the ranking member was taken away from them again, and they do not even have it in their custody.

Yes, I am glad to yield.

Mr. HASKELL. I appreciate the Senator's remarks.

Clearly, we cannot buy a pig in the poke. As Senators, we cannot vote on something we do not know about.

I will go one step further than the Senator from Virginia, in that I would feel, if we are going to have public support, if we are going to operate in a truly democratic way, the public must know. My position is negotiations certainly have to proceed in secret. There is no question about it.

When agreements are reached, if they are going to be honored, they better be revealed to the public, and that is where I think possibly the Senator from Virginia and I might disagree.

Mr. WILLIAM L. SCOTT. We may not have a very wide range of disagreement, because I am in general agreement, unless national security matters are involved, that perhaps we would not want a potential adversary to know about. I would make a very narrow restriction.

Mr. HASKELL. I understand the Senator's position.

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

Mr. HASKELL. I certainly will.

Mr. HELMS. Mr. President, I am delighted to hear colloquy between the distinguished Senator from Colorado and the distinguished Senator from Virginia. As Senator HASKELL has just indicated, I spoke at some length on this matter yesterday afternoon in this Chamber, and I gather that the Senator from Colorado is not interested in any more faits accomplis being presented to the Senate, for, as some would like to be, automatic approval. Is that the Senator's position?

Mr. HASKELL. The Senator states my position correctly.

Mr. HELMS. As far as the American people are concerned, I think they are sick and tired of all of these agreements being made in secret and brought back and approved by Congress with little or no discussion or debate.

Mr. HASKELL. If the Senator will yield, it seems to me that the American people would quite rightly refuse to honor agreements that are secret and kept from them.

Mr. HELMS. The Senator is absolutely correct. Here we have a matter where no one is certain how many billions of dollars are involved. We hear about 200 people being sent over there, and we are putting them in a position of being hostages from the time they arrive. Yet most of the information I have, as a U.S. Senator, has come to me from the news media, and that has been leaked, and I might add selectively leaked. I am getting sick and tired of it, and I think the people of this country are getting sick and tired of it.

At the very minimum, I will say to the Senator, I think there ought to be a secret session, a closed session of the Senate so that all 100 Senators can have an opportunity to find out everything that is involved in this proposition. I do not want to withhold anything from the American people. But there may be, as the Senator from Virginia has said, some security aspects which should be guarded. But, otherwise, I think the American people ought to know to what we are committing their resources and their lives.

I commend the Senator from Virginia and the Senator from Colorado for their statements.

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

Mr. HASKELL. I thank the Senator and yield to the distinguished Senator from Delaware.

Mr. BIDEN. I thank the Senator very much.

I did not intend to participate in this debate. I just came from a 2-hour meeting of the Committee on Foreign Relations where the very subject was discussed. It will come I think as some assurance to the Senator from Colorado that some of us, from the very beginning, have insisted that everything, whether or not they are security items, no matter what, any and every single, solitary aspect in its actual written form, as submitted to the Committee on Foreign Relations, or in the hands of the Executive, should be made not only fully public to the Members of the U.S. Senate, but also to the American press, not in executive session, not with any agreements, regardless of what the security aspects may be.

I inform the Senator from Colorado that we received his letter this morning, signed by him and Senator HATFIELD. I think he would be pleased to know that, even prior to receiving it, the committee had agreed that it is a strong feeling of the committee that we, in fact, have disclosure.

The only elements of it are how, when, where, and what form; but there are those of us who are insisting, and some insisting to slight modifications, that the thrust of what the Senator from Colorado is suggesting be fully complied with. Although I cannot speak for the Committee on Foreign Relations, being the most junior member of that committee, I think it is fair and accurate to say that there will be no doubt that Members of the U.S. Senate will become privy to everything to which that committee has been privy. I would sincerely hope that the American public becomes privy to every single solitary word that has been written that constitutes any semblance of assurance or agreement to Israel, to Egypt, or to any other Middle Eastern nation, and in any way relates to this so-called Sinai Accords.

I compliment the Senator.

Mr. HASKELL. I am very pleased to hear the Senator from Delaware say that, because I concur heartily that it must be made available to the American people. It is the American people, if we make a commitment, that we are committing, not just ourselves as Senators, and it is the American people that we are asking to honor the commitment. How in the world in a democratic society can we bind people behind closed doors?

Mr. BIDEN. If the Senator would yield on that point, it seems to me, as different and divergent points of view may have been with regard to Vietnam, that there is one thing we must have all learned: That we cannot commit the will of the American people, the tenacity, and fortitude of the American people for a long duration, or even a short duration, unless the American people are in fact made aware of what they are committing to.

I suspect that maybe that war would have taken a different course—I do not know what the course would have been—had the American people been leveled with from the beginning. The President a long time ago said something about secret covenants arrived at openly, or that was his whole discussion and thrust, and talked about open covenants arrived at openly is the way we should conduct our foreign policy.

So I hope we have learned one lesson, at least, from our encounter in Vietnam. I think it is really ludicrous for us in the U.S. Senate, whether it be in committee or as a whole, to pretend to the press and to the American people that we in fact have revealed everything to them, when in fact they probably have learned more from the American press about the documents and agreements than we even admit exist.

Mr. HASKELL. Mr. President, if the Senator will yield at that point, I agree with the Senator. I have learned much more from the press than I learned in an executive meeting of the Committee on Foreign Relations some 2 weeks ago, where Dr. Kissinger was present.

I appreciate the Senator's remarks.

I yield the floor.

The PRESIDING OFFICER. Without objection, the unanimous-consent request of the Senator from Colorado is agreed to; and the names of Senator ABOUREZK and Senator CRANSTON will be added as cosponsors.

Mr. WILLIAM L. SCOTT. Mr. President, I do not believe that this is the time to go into any extensive debate about the Middle East interim agreement. However, I read an item in the

newspaper or news magazine last night indicating that some Russian troops might be used as observers between Syria and Israel in the event of a peace agreement between those counties.

I believe that when things such as this, remote as they may be, are a possibility, where two major world powers might be in this very small area of the Middle Eastern portion of the world, we should think long and hard before we commit any American observers to the area, between two former enemies, Egypt and Israel, and so close to a potential enemy, the other major world power.

I have very serious reservations about our commitment in the Middle East and would like to be fully informed of its extent. I have not yet been fully informed, nor has the Committee on Armed Services. The chairman of our committee has indicated that he wanted to get the Secretary back before the committee to inform us more fully, but I feel that it must go beyond an individual Senator or an individual committee. I believe that both the Senate and the House should be fully informed before any action is taken on this important matter.

EXTENSION OF PERIOD FOR MORNING BUSINESS—ORDER FOR RECESS TO 1 P.M.

The PRESIDING OFFICER. The time for morning business has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for routine morning business be extended to 7 minutes, and that at the conclusion of 7 minutes, the Senate stand in recess until 1 p.m. today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DIEGO GARCIA—A QUESTION OF HUMAN RIGHTS

Mr. CULVER. Mr. President, yesterday, I reported to the Senate that certain vital questions relating to the conversion of a peaceful island in the Indian Ocean, Diego Garcia, into a military base and the apparent deportation of its native inhabitants to make way for the installation, remain unanswered. I stated my conviction that Diego Garcia has an importance relating to our moral consistency in international relations and our basic foreign policy objectives far beyond its dimension as just one more military installation in a remote part of the world.

As Senators know, an amendment which I introduced to the State Department authorization bill was enacted and called for a full report on Diego Garcia by November 1. In the meantime, press reports from outside sources provide additional information which, if confirmed, is deeply disturbing and suggests the need to reassess, in the overall context of our foreign and defense policy objectives, the wisdom of proceeding with a provocative military expansion in a hitherto peaceful and stable area of the world.

The London Times of September 21, 1975, carried a comprehensive article entitled "Diego Garcia—The Islanders Britain Sold" which details the history of the acquisition of the island for Mauritius by Britain, the leasing of the island to the United States, some previously undisclosed reports of the financial arrangements involved, the reportedly coercive deportation of the native Diego Garcians from their homes, and their present impoverished plight in Mauritius.

The story of Diego Garcia, according to the Times:

> Is a mixture of desert island intrigue, world power rivalries, and insensitive muddling. Caught up in it are 1,000 British citizens who were living and working peacefully on three islands in the Chagos group until the late sixties when the British Government entered into secret negotiations with the United States to use them as part of the Indian Ocean defense complex against Soviet Union activity. In a remarkable period of post-imperial dealing, Britain bought the islands and then recreated them so that they could be rented as "uninhabited" to the American military.

If the version of what happened in Diego Garcia that appears in the Times and other recently published news reports is confirmed, it is plain that our Government has been in complicity with a manifest, insensitive violation of the human rights of these people, and a sordid and deceitful coverup of the facts.

Apart from our own moral principles as a nation, the Universal Declaration of Human Rights of the United Nations, which our country had a major role in drafting, explicitly prohibits such forceful expulsion of a people from the homeland, as reported.

Article 9 of the Universal Declaration states:

> No one shall be subjected to arbitrary arrest, detention or exile.

Article 12 states:

> No one shall be subjected to arbitrary interference with his privacy, family, home.

Article 2 states that no distinction shall be made in the entitlement to the rights and freedoms set forth "on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty."

In addition to documenting the gross and arbitrary violation of the human rights of the Diego Garcians, the Times article underscores questions that have already been asked about the propriety of the financial arrangements between our country and Britain, the understated significance of the base in terms of future military expansion, and the overplaying of the Soviet expansionary "threat" in the Indian Ocean.

Mr. President, I will have more to say about Diego Garcia in the days ahead. But at this point, I believe it is extremely important for my colleagues to have the information contained in the full text of the London Times article. I ask unanimous consent that it be printed in the RECORD.

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

DIEGO GARCIA: THE ISLANDERS BRITAIN SOLD

The story of Diego Garcia, told on these two pages, is a mixture of desert island intrigue, world power rivalries, and insensitive muddling. Caught up in it are 1,000 British citizens who were living and working peacefully on three islands in the Chagos Group until the late sixties when the British Government entered into secret negotiations with the United States to use them as part of the Indian Ocean defence complex against Soviet Union activity. In a remarkable period of post-imperial dealing, Britain bought the islands and then recreated them so that they could be rented as "uninhabited" to the American military.

Whether Britain has profited from the buying and selling is not yet clear. We paid a total of £4m for them and in a complex deal seem to have received at least as much in dollars. But what is clear is that:

The islanders deported to Mauritius are as a result considerably poorer (as William Ellsworth Jones reports). They still await compensation and one of them is suing the British Government.

Despite assurances on the joint-use of the island as a communications facility, it has been handed over almost entirely to the Americans, who apparently paid the British Government for the clearance costs.

Both British and American governments have persistently underplayed the defensive role Diego Garcia was to perform in the US Navy's burgeoning world strategy.

Even when strident opposition to the construction of a major US base on Diego Garcia was being voiced in Washington—not least by the CIA—both Labour and Tory British Governments have quietly allowed the expansion of the facilities to proceed.

One thousand British citizens lost their homes and livelihoods to make way for an American naval base in the British island colony of Diego Garcia in the Indian Ocean. And they are still without compensation promised to them, though the British Government has given Mauritius £650,000 for their resettlement.

Even that sum is dismissed as inadequate by the islanders' legal adviser, Gaetan Duval, who said in Port Louis yesterday that £15m was needed.

The story of Diego Garcia, pieced together last week by Sunday Times reporters in Mauritius, Washington and London, contrasts vividly with statements issued by the British, American and Mauritian governments, both at the time and in recent weeks when a Congressional inquiry in Washington has begun to uncover this bizarre episode in Britain's colonial history.

The islanders were moved from Diego Garcia after 1968 and deposited in Mauritius. There they have been living in squalor.

The official British attitude has been that there was no settled community on the island, simply a group of copra factory contract workers. Our inquiries suggest, on the contrary, that some of the deported islanders had family roots and had lived there for up to five generations: there was a church and a school as well as the factory.

The Foreign Office has suggested that the 1,000 inhabitants of Diego Garcia and its neighbouring islands, Peros Banhos and Salamon, left willingly. Britain, in fact, left the responsibility for clearance to a private contractor; no British official supervised it or has followed up the islanders' fate.

So muddled was the last stage of evacuation that 35 islanders had to spend their first nine days in the Seychelles in prison because no one provided anywhere else for them to stay. The 35, who included women and children, were allowed out of prison by day, but locked up again at nine each night.

In Mauritius last week groups of islanders, interviewed by Will Ellsworth-Jones of The Sunday Times, made it clear that none of them had left willingly. They had left peacefully simply because they had no choice, and they were bitter about the way they had to abandon their homes and their chickens and ducks, their biggest source of wealth.

Tracking the islanders down in the slums around the Mauritian capital of Port Louis, Ellsworth-Jones reports two things are common to almost all their hovels. First, there is nearly always a framed portrait of the Queen and Duke of Edinburgh staring embarrassingly from the walls, which are sometimes no more than tin canisters beaten flat. Secondly, from some dark corner, they usually manage to dig up their other prized possession: a birth certificate showing they were born on one of the three Chagos islands. Seldom can they read it, but they know its importance since one of them, Michel Vencatassen, began to sue the British Government, claiming that he was "ordered, coerced or compelled" to leave his home.

Roche Bois, where both Michel and Marie Vencatassen live, is beside the Port Louis municipal rubbish dump. Many of the islanders have gravitated to the area because, being about the most unattractive part of a beautiful island, it is also the cheapest. In Roche Bois lives Mrs. Elian Chamona. Six small strips of corrugated iron make up her home. In Britain, it would be thought of as a dry shack for chickens. Even among the poorer parts of Mauritius it would probably be considered a disgrace that anyone should live here, let alone a mother and her seven children.

Mrs. Chamona was born in 1936 on Peros Banhos island. She visited Mauritius twice on holiday. Her husband, who was born on Salomon, never paid a visit. They were among the last group of islanders to leave their homes, and arrived in Mauritius early in 1973.

She left behind a three-roomed house, about ten ducks, and a few chickens. She has been living for the last two years in a hovel. It is not that it is dirty. In fact, one of the traits of these islanders is that despite their conditions, they manage to keep themselves and their homes remarkably clean. It is just appalling to see a woman and her seven children try to live in a tin hut where there is only room for an iron double bed, four chairs and a cupboard. At night a mattress is put on the floor so that the children who do not share her bed can sleep on the floor between chairs.

Her husband left Mauritius 23 days ago, contracted to go fishing on a nearby island. It was the only job he could get. It means that she will not see him again until December.

"We were told that we had no right to stay on the island," she says. "We were told that if we were permitted to stay there would be no ship to feed us. . . ."

The islanders claim that when they were deported they were promised a piece of land and money for a house when they arrived in Mauritius. They have received neither land nor the house. The last group of islanders who arrived from Peros Banhos in 1973 refused to leave the boat that brought them when they found no help ready for them.

This unexpected militancy brought results. They were housed partly in a complex of dockers' flats, and partly in Government housing. After two months in the Government houses, rent demands started to appear.

The Mauritian Government can claim that as a developing country it has huge problems but the fact remains that islanders have to go begging to survive, and live in shacks which are little more than chicken coops. The Government has got no further than acquiring one piece of land in Pointe aux Sables, which is generally known as the brothel district of Mauritius, and is negotiating for a second piece of land in Roche Bois, known as the worst slum in Port Luis.

HOW A QUIET DEAL EVOLVED INTO A MAJOR U.S. COMMITMENT

From its earliest discovery by the Portuguese in the 16th century, Diego Garcia seems to have fulfilled each visitor's schoolboy dream of a desert island. A long V-shaped atoll of coral reefs, dazzling sand and coconut trees encircles a huge lagoon 14 miles long and four miles across—regarded by many sailors as one of the finest natural harbours in the world. As Englishman, James Horsburgh, who was shipwrecked on the island in 1786, described it as "one of the wonderful phenomena of the globe."

By the 1780s a French company had already begun extracting coconut oil from the palms and the population, including slaves and a small leper colony, numbered 275. With the defeat of Napoleon, Diego Garcia passed from French to British sovereignty, though like all the former French possessions in the Indian Ocean it has retained strong French connections to the present day.

The copra (dried coconut) industry continued to flourish, with the emancipation of the slaves and their conversion to "contract workers" causing little alteration to the islands' life-style—or it, seems, to the British government's conception of their national status.

By the turn of the century, Diego Garcia boasted three flourishing copra factories, a less successful coaling station for ships on the Australia run, a church, a hospital, a jail, a light railway, some handsome French-colonial style houses and more than 500 inhabitants. Already those on "written contract" with the copra company were in a minority of the residents and than three-quarters considered themselves permanent settlers. As early as 1870, inhabitants were building their own thatched cottages rather than living in company quarters.

Diego was empoyed as a naval radio and flying boat base in the last war. Two catalina flying boats destroyed in a 1944 cyclone still lie wrecked in the jungle. And when the traveller, Robert Scott, toured the Chagos group in the nineteen-fifties he could report on a thriving settlement at East Point, together with three or four other villages and numerous smaller hamlets. "East Point has a look of a French coastal village miraculously transferred whole to this shore," he wrote in 1961.

He described "the touches of old-fashioned ostentation in the chateau and its relation to the church . . . the neighbourly way in which whitewashed stores, factories and workshops, shingled and thatched cottages, cluster round the green. The lamp standards along the roads and the parked motor lories." He also noted the warm welcome of the islanders and the habit of the schoolchildren of bringing out British flags to greet all and every visitor. It was, as the Diego Garcians now recall in their Creole patois, 'la vie facile'.

The islanders owned their own boats, fished, cultivated gardens and livestock and lived in a community in which, in Scott's words, "roots have been struck and a society peculiarly suited to the islands' have been developed." In the early sixties the copra industry was entering a period of increasing prosperity and quantities of guano (used for phosphate) were being shipped out as well. With the prospect of independence for the islands' administrative capital in Mauritius, the Chagos group might reasonably have expected to continue its untroubled life indefinitely—one day perhaps casting a hopeful nod in the direction of the international tourist trade. But it was not to be.

The islands of the Chagos Archipelago first swam into the collective consciousness of Western defence strategists in the late fifties. It was then that American experts began to realise the need for communications facilities across the Indian Ocean—there was none at that stage between Eritrea in Ethiopia and the Philippines. And both the British and the Americans were aware of the geographical and physical suitability of the Diego Garcia lagoon.

PROMISE TO INDIA

Already in 1963–64 initial discussions began between the two governments on the future of the Indian Ocean islands, and they took on a new urgency for the British with the impending loss of Aden and the need for an alternative refueling base to Gan on flights to the base in Singapore, which the first Wilson administration was still intending to retain.

So public did these discussions become that the Labour Government felt it necessary to assure the Indian Government quite categorically that neither it nor the U.S. had any intention of setting up "a military or naval base in the Indian Ocean." Besides, as Harold Wilson frequently found occasion to say at this time, the British Government would never impose a military base upon an unwilling native population.

Both these assurances were shortly to experience some imaginative reinterpretation. In April 1965, the Colonial Secretary, Anthony Greenwood, travelled to Mauritius for independence talks at which the hiving off of some of the smaller islands, especially the Chagos group, was agreed. The islands were to remain as colonies, renamed the British Indian Ocean Territories (BIOT).

The case for retaining Diego Garcia, Greenwood recalled last week, "was to make the withdrawal from Aden more palatable especially to the Americans." The Government paid the Seychelles and Mauritius the princely sum of three million pounds in compensation for "loss of sovereignty" over the islands.

Anthony Greenwood now says he thought at the time that the inhabitants of the islands were "a handful of fishermen and turtle hunters." The islands were anyway to be cleared of their occupants, and the reason was quite simply security, about which the Americans had apparently felt most strongly.

Dissident locals and violent neighbours were becoming the curse of American overseas bases. The job of Chagos was, so the British appear to have assured the Americans, that it was to all intents and purposes uninhabited. The plantation company would be bought out and the "contract workers" would by the same token dematerialise. The company, Chagos-Agalega Ltd., received £1,100,000 for the "freehold" of the islands which passed to the BIOT.

The logic of this was conveyed by an announcement in May, 1966, that the government intended to "depopulate" the BIOT islands as soon as possible. At the same time an agreement was signed between a junior minister at the Foreign Office, Lord Chalfont, and the U.S. Ambassador, David Bruce, which stated that the island of Diego Garcia would "remain available for defence purposes for 50 years."

At this stage neither the Americans nor the British have been able to explain why it was necessary to depopulate the islands for what was then seen as no more than a "communications facility," nor why such a facility should require the closure of a thriving copra business. Nor, since even today it is only Diego Garcia that is being used, can they explain why the Salamon and Peros Banhos islands in the Archipelago had to be

cleared as well—except for the ubiquitous excuse of "security."

Considerable mystery also surrounds what exactly the British Government—and taxpayer—received in return for providing the Americans with one of the world's finest "uninhabited" potential bases. Retaining Diego Garcia cost no less than four million pounds (in compensation to Mauritius, the Seychelles and to the plantation company). Ostensibly the original agreement suggested that the island would be freely available to both British and American governments, each paying for whatever they wanted, with the Americans paying no rent.

However, it emerged in Washington last week that there was indeed a financial tradeoff. At least $11.5 million worth of "bills" or expenses incurred by Britain in securing the real estate of the island and emptying it of its inhabitants has been paid by the U.S. Government—the last payment being made in July this year.

These payments were not in fact approved by Congress, and it has been suggested that they came either from offsetting the research and development costs on Britain's Polaris missiles bought from the Americans or from a straight payment from Presidential or Secretary of Defense discretionary funds. At any rate, it seems the British did not get so bad a deal as at first appears.

The British colonial authorities in the Seychelles, however, were now left with the problem of providing the Americans with vacant possession. And they were more aware than the Colonial Office in London appears to have been of the nature of the settlements—they had been administering them and sending magistrates to them for a century and a half.

In 1967, the BIOT took over the freehold of the islands and entrusted the management of Diego Garcia to a Mr. Marcel Moulinie, whose family had owned a third of Chagos-Agalega Ltd. He said: "We were not told when we took over that we should run the plantations down." But the rundown commenced in 1968 with workers who went on holidays or visits to other islands simply not being allowed passages to return. About half of the 1965 total of roughly 700 inhabitants had departed by the end of 1970.

THE NEGOTIATOR

The British authorities appear to have played no part at all in the clearance. The first Governor of the BIOT, Lord Oxford and Asquith, stated last week that he regarded Diego Garcia as the "more settled" of the islands. But negotiation over the clearances was left in the hands of his deputy, Mr. John Todd.

The Treasury Solicitor last week "strictly instructed" Mr. Todd to make no comment on any aspect of the case. But the Foreign and Commonwealth Office concede that no government official of any kind supervised the clearance. It was left to Moulinie and to the time-honoured principle that the inhabitants were "contract workers" and therefore the responsibility of their employer, and not the British Government. The fact that they were previously resident on British soil and were to be transported to what was now a foreign country, Mauritius—1,200 miles away—was neither here nor there.

Moulinie himself clearly had this qualms about the operation. "The moment I saw these islands, I took to them," he says. "It was a paradise there." He added, "It wasn't very pleasant telling them they had to go. We told them we had orders from BIOT. We just said, sorry fellows but on such-and-such a day we are closing up. They didn't object, but they were very unhappy about it, and I can understand this because I am talking about five generations of ilois (islanders) who were born there."

Work on the plantations actually stopped in 1971. In March of that year, the Americans arrived and, according to one of the islanders. Michel Var, told them that "no one has the right to stay"—the first they knew that one day they would definitely have to leave. The Americans were friendly towards the islanders, taking them on a tour of their installations and handing out Coke and candy to the children and beer to the adults. Eventually some of the islanders were to sell them their boats.

Two ships were used for the eventual clearances, the Nordvaer, owned by the BIOT, and another vessel, the Isle of Farquhar. At first the islanders were given a choice: either be taken to Mauritius or to the neighbouring islands in the archipelago.

ANIMALS LEFT BEHIND

The last inhabitants to leave Diego Garcia went, according to Michel Var, in September 1971. The Nordvaer steamed into East Point and the islanders discovered that instead of bringing the provisions they had expected to replenish their store it had come to take him off. On September 28 it was loaded up by the islanders with copra and the plantation machinery that could be salvaged. Late that night the last 35 islanders were paid off and allowed to load their own baggage, although their most valuable possessions, their animals, they had to leave behind.

Michel Var was himself one of the "written contract" workers. He signed his contract with the Chagos-Aralega company on February 18, 1963, and his thumbprint was witnessed by a Port Louis magistrate. Since he never left the island again after that, his contract although technically only for two years, was simply continued on with his salary starting at 18 rupees a month, slowly rising as his responsibility increased.

Michel Var contracted to work for eight hours a day on the upkeep of the plantation, collecting coconuts, digging and sifting guano and loading and unloading ships. In return, apart from his pay, he was given a free house, ten and a half pounds a week of rice, flour or maize, 125 grammes of salt per week, 500 grammes of coconut oil, plus medical treatment and even burial expenses.

Some controversy surrounds the degree of coercion used in the departure. One islander, Michael Vencatassen, is bringing a test action against the British Government on the grounds, according to his London solicitor, Bernard Sheridan, that he was "ordered, coerced and compelled" to leave. The British authorities deny this strongly, saying the islanders were not a British responsibility and left of their own accord.

The British, however, are relying on a confidential report on the clearance given them by Moulinie himself, and on the fact that a sum of £650,000 was made available to help in the islanders' resettlement. After meeting about 50 of the islanders in Mauritius last week, we were told that the most plausible explanation was they left peacefully for the simple reason that they had no choice. They were also told there would be land and money for them in Mauritius.

Another islander, Marie Vencatassen, said, "We asked to stay but we were told it wasn't possible. The Americans had bought all the islands and we had to leave. We were told it was the last boat." The islanders who first moved to the Peros Banhos and Salamon islands were finally transported on to Mauritious in 1973. Each of the voyages, cramped under tarpaulins above the copra on the rolling decks of the *Nordvaer*, were clearly a nightmare for the islanders. But it was only a foretaste of what was to come.

Having been promised a home and land in Mauritius, the islanders on the last trip were taken first to the Seychelles so that the ship's cargo could be disembarked. "We were vaccinated and went through customs," says Marie. "We asked for Mr. Paul Moulinie [Marcel's uncle] and we walked about one and a half miles to his office. He tried to get us somewhere to stay but he couldn't, and he told us the only place that was empty was the prison. We slept in cells on prisoners' mattresses. The prisoners served us food. It was bad. The doors were locked at nine o'clock."

Marcel Moulinie said last week that the jail idea was suggested by the administrator of the BIOT. Nine days later the islanders were put back aboard ship and taken 1,000 miles to Mauritius.

When they arrived in Mauritius neither the promised land nor money for housing was provided. The last group of islanders who arrived from Peros Banhos in 1973 refused to leave the boat that brought them when they found that no help was waiting for them: a rare show of militancy which secured them accommodation in dockers' flats and government housing. But all the islanders are bitter about the fate of the £650,000 which the British Government paid the Mauritian authorities for "relief and resettlement." They have yet to see any evidence of this being spent and ask. "Why the delay?"

"That of course is the £650,000 question," replied one Mauritius government official when asked the same question last week. The Mauritius Government blames everything from the difficulty in buying land to this February's cyclone Gervaise which left 90,000 people homeless. For the present, it has got no further than acquiring one piece of land in Pointe aux Sables, which is popularly known as the brothel district of Mauritius, and negotiating for a second piece of land in Roche Bois, which is known as Port Louis' worst slum.

A particular source of bitterness among the older islanders is their loss of the pensions to which they felt they were entitled if not by contract at least by well-established custom. Jean Desir, who received what by island standards was a high salary—80 rupees a month—says he considers he was entitled to a pension of half his pay on tip of the 80 rupees if he continued to work.

The Mauritius Government has paid out old age pensions to 57 islanders, public assistance to 74 and family allowances to 78. Sir Veerasamy Ringadoo, the finance minister says "conditions may be bad for some of these people, but not worse than for a lot of our people who have been living here all the time. He says that none of the money has walked away (it is still there on trust. He argues—convincingly—that it would have been foolish just to dole out all the money in a lump sum to islanders who had very little concept of a society based solely on a money economy. But he is hard put to explain what has caused the delay in providing any kind of help for the islanders other than to say that it takes time to ensure that the money is spent in the right way.

He estimates that about half the islanders would like to return to their homes and he says the Mauritian Government has now begun to consider the possibility of setting them up as co-operative on Agalega island where there is already an established coconut plantation. Unlike some government officials Sir Veerasamy is not demanding more money from the British unless it can be shown that the British actually made money on the deal by getting cheap Polaris missiles. He says sadly: "It is easy to be wise after the event. But the problem is that when we talked about these islands in 1965 nobody realized that these people would not settle all right in Mauritius."

Tracking the islanders down in the slums around the Mauritius capital of Port Louis, two things are common to almost all their hovels. First there is nearly always a framed portrait of the Queen and the Duke of Edinburgh, staring embarrassingly from walls

which are sometimes no more than tin cannisters beaten flat. Second, from some dark corner, they usually manage to dig up their other prized possession: a birth certificate showing they were born on one of the three Chagos islands. Seldom can they read it, but they know at least that it is important.

The islanders' former home was meanwhile being swiftly built up by the Americans from a "shared communications facility" into being the apple of the eye of naval strategists. For the past nine years, US Navy officials have worked assiduously, secretly and ultimately successfully to turn a British colony into what is now on the road to becoming a new Okinawa.

In the process an ocean which American diplomats, including the present US United Nations delegate, Daniel Moynihan, have described as marginal to American interests and best left as a neutral zone, has been transformed into yet another area of potential confrontation between East and West. In the resultant battle between Washington departments, the hawkish Pentagon has throughout been able to rely on the assistance of successive British Governments, for its side of the argument.

When the 1966 Agreement with Britain on Diego Garcia was signed, the Americans were preoccupied with Vietnam. But in 1967 another Anglo-American scientific mission surveyed the islands. Their first choice for development, Aldabra, was rejected after an outcry from conservationists. But the Americans seemed happy with the second choice. "It's the Malta of the Indian Ocean," said Admiral John McCain, US Commander in the Pacific. After Nixon took office in 1969 the Pentagon urged that the 1966 Agreement be implemented, particularly since the Russians were now "threatening" the Indian Ocean.

The Russians had arrived in 1968 with about six ships, had recovered their Zond 5 satellite off Mauritius, had laid buoys around the Seychelles and paid visits to several ports. Over 1968–69 the number of Russian shipdays they spent in the area increased from 529 to 1,138, according to Washington. "They have every intention of filling the gap left by British withdrawal," warned Admiral McCain.

The Senate, however, fearful of another Asian imbroglia, refused the funds for developing the facility. This led one British official to admit to the Commons Public Accounts Committee that we appeared to have paid "a million pounds for a copra plantation."

US Navy chiefs were prepared to wait; they were anyway concerned about the strength of the Labour Government's commitment to "facilities" on the island. And after the Conservative election victory of June 1970 Admiral Elmo Zumwalt, chief of US Naval Operations, wrote a personal letter to the new foreign secretary, Sir Alec Douglas-Home, to congratulate him and look forward to close co-operation in the Indian Ocean.

Sir Alec, who considered that the Soviet presence there alone justified the sale of arms to South Africa, was more than game. In December the two governments agreed in principle to build "a naval communications facility."

It is likely that the island's communications role will be as a transmitting station for Very Low Frequency (VLF) radio signals in the Omega navigational system developed by America to help nuclear submarines position their missiles accurately. Omega requires eight such stations for global coverage, and if Australia refuses to allow one on her territory—as seems possible in view of the intense controversy the suggestion has created—Diego Garcia, in the middle of the Indian Ocean, would be an obvious alternative. The Australians fear that an Omega station on their soil would present an obvious target for nuclear attack.

But the US Navy seemed to have wider hopes for the use of Diego Garcia—probably closer to those of its War College which in October 1970 recommended "a highly visible multilateral military presence, preferably naval, in the area."

Once the State Department had announced that the inhabitants of the island would be "relocated" the Navy flew in a command staff and several hundred Seabees—naval labourers—to build the sort of quarters Americans like. No attempt whatsoever was made to hire labour from the 360 people then inhabiting the island, despite the provisions of the 1966 Agreement which specified that local people should, if possible, be given work.

Since the end of 1970 there have been anything up to 1,000 Americans on the island plus 30 to 60 British naval ratings. The British are under a Lieutenant Commander who is also the Political Resident and is supposed to impose the rule of British law upon the Americans. The first Resident was Lt. Commander P. J. M. Canter.

Relations have not always been easy and British ratings report that many of the Seabees are "stoned out of their minds all the time." Their building programme has therefore lagged behind. The Americans, the ratings say, also cause something of a hazard by insisting on driving very fast, on the wrong side of what passes for a road (driving on the left still theoretically applies as in many other British colonies). Their superiors have also flouted the terms of the agreement by refusing to allow the British to use the communication facilities without American supervision. Lt-Commander Canter was given an M.B.E. after his time on the island.

In March 1973, just after Nixon had achieved his "peace with honour" in Vietnam, the communications station was opened, with a lack of publicity which has characterized the venture throughout. Later public pronouncements were limited to assurances to Congress that there were "no plans to transform this facility into something from which forces could be projected."

The Yom Kipper War, however, gave the U.S. Navy's ambitions a crucial boost. On November 30, 1973, Secretary of Defense Schlesinger announced that the Navy would pay the Indian Ocean far more attention than in the past and at the beginning of 1974 Congress was asked for more funds to convert the communications facility into a "naval support base"—to extend the runway from 8,000 feet to 12,000 feet and to build a fuel storage depot that could supply an aircraft carrier task force for 28 days.

According to a State Department memo marked "secret," both American and British Governments agreed to try and conceal the nature of this remarkable request—which would in effect override almost every assurance given before. Press spokesmen were instructed to say that the new plans were "just a natural extension" of what had been built before.

CONGRESS OBJECTS

It is, however, less easy to bamboozle the American Congress than the British Parliament. Under intense questioning from a Congressional committee, Admiral Thomas Morer, chairman of the U.S. Joint Chiefs of Staff, agreed that the new runway would allow the landing of B–52 bombers. Air Force Major-General George Loving announced that he would like to see the island used for the original purpose Denis Healey had in mind in the mid-sixties—as a base for F1–11s which have a range of 5,600 miles and can carry nuclear warheads. The lagoon was to be dredged and equipped for aircraft carriers and submarines. In its secret memo the State Department admitted that weapons would be stored on the island.

The American Congress initially refused to authorize the 29 million dollars requested by the Pentagon for the expansion. "It's only a down-payment," declared Senator Mike Mansfield who gave many examples of the way military costs escalated—and military intentions get out of hand. Congressman Robert Leggett added: "If you liked Vietnam, you'll love Diego Garcia."

Congress delayed the expansion for more than a year. But just before a crucial vote on the issue this summer, the Pentagon played another card in what is known as their traditional game of "The Russians are coming." They published aerial photographs purporting to show that the Russians were building a huge missile base at Berbera in Somalia. A congressional junket was organised to look at it. Inevitably "hawks" agreed and "doves" disagreed with the Pentagon's claims, although the Somalians refused to allow them to inspect the actual sites. But the claims were considered strong enough to force the necessary bill through the Senate. On July 28 this year, the Pentagon was empowered to expand Diego Garcia as it wished.

A week beforehand, the British Defence Secretary, Roy Mason, announced to an apparently complaisant House of Commons that the Americans were proposing not a base but only "a very austere communications facility for aircraft and ships." When asked the difference between a base and a communication facility, Mr. Mason replied that the former included "replenishment, stores and recreation." He also maintained that Diego Garcia was a much smaller facility than the RAF's staging post on the island of Gan. On the basis of evidence available both in Washington and on the ground in Diego Garcia itself, it is hard to see the factual basis for Mason's statement.

The effect of this expansion is difficult to predict. Throughout the last five years the main American argument has been the need to counter the Soviet threat. In fact the US Navy was eager for an island base long before the Russians ever touched a toe in the warm southern waters, and there is considerable disagreement even within Washington over whether the new base will deter or encourage Russian expansionism in what is one of the richest areas of the world.

Henry Kissinger has been lukewarm towards the project arguing that there is no direct relationship between influence in the area and the number of ships in the sea. He has dismissed Zumwalt's claim that the re-opening of the Suez canal will strengthen the USSR. And in July last year, the doves found themselves an unusual ally in the CIA Director, William Colby, who said that the Soviet forces in the Ocean "have been relatively small and inactive." In fact, he said, the Russians tended to compete with the United States, and an American build-up would force them to increase their own presence there. Such escalation is, of course, the fear of the many countries bordering the Indian Ocean, who have called for it to be declared a neutral zone.

The Russians apart, Diego Garcia fits well into what the Pentagon calls its "blue water strategy" for the defense of what remains of "free world" Asia. In 1972 the Military Review carried a major critique of US Defense policy in which it argued that in Vietnam "we have learned that, in strategic terms, ground power can be quite inflexible once committed. . . . while aircraft and ships can often reverse course and make a clean break, ground forces can rarely do so, once engaged." The Pentagon has thus developed a series of naval bases stretching from Yokusuka in Japan (which became the permanent home of the carrier Midway last year),

through Tinian island, the Philippines to Diego Garcia and Simonstown in South Africa.

THE RISKS INVOLVED

In August 1973 American B–52 pilots who were bombing Cambodia out of Thailand complained that their next base would be on the British island. Now that the Americans are being forced to give up their berths for nuclear submarines in Sattahip, Thailand, and may also be denied berths in the Philippines, the isolated lagoon of Diego Garcia may prove their ideal southern base as well.

The way in which the Vietnam war ended, the Mayaguez adventure and the increasing difficulty the Americans now face in maintaining their bases in populous Asian countries have all confirmed President Ford in the need for Diego Garcia which he now describes as "essential to US security."

Senate liberals feel that all along it was more essential for US Navy self-aggrandisement than essential for the US security. And they feel that British help in clearing the island of potentially undesirable inhabitants was one of Diego Garcia's most attractive features. They fear that now that the US Navy is, for the first time, a three-ocean concern, it will use Diego Garcia to argue for maintaining more ships and more aircraft.

Yet the risks of the Diego Garcia venture are not only of increasing costs to the Americans, but of increasing tension in the one part of the world from which confrontation has until now been absent. The late Senator Richard Russell, who was chairman of the Senate Appropriations Committee and responsible for handing money to the services, once remarked: "If we make it easy for the navy to go places and do things, we will find ourselves always going places and doing things."

"Whoever heard of Diego Garcia?" asked Senator John Culver this summer. "But then whoever heard of the Gulf of Tonkin?"

The difference for Britain is that Diego Garcia is supposed to be British soil.

MESSAGES FROM THE PRESIDENT

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

REPORTS OF BUDGET DEFERRALS INVOLVING THE DEPARTMENTS OF TRANSPORTATION AND HEALTH, EDUCATION, AND WELFARE AND THE NATIONAL COMMISSION ON PRODUCTIVITY AND WORK QUALITY—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Finance, the Committee on Public Works, the Committee on Banking, Housing and Urban Affairs, jointly, pursuant to the order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three new deferrals totalling $106.4 million in budget authority. The three reports involve programs of the Departments of Transportation and Health, Education, and Welfare and the National Commission on Productivity and Work Quality.

The details of each deferral are contained in the attached reports.

GERALD R. FORD.

THE WHITE HOUSE, *September 24, 1975.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:30 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the bill (H.R. 4005) to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs authorized by that act.

The enrolled bill was subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED INTERCHANGE JURISDICTION OF CIVIL WORKS AND FOREST SERVICE ACQUIRED LANDS AT SAM RAYBURN DAM AND RESERVOIR PROJECT, TEXAS

A letter from the Secretary of the Army and the Secretary of Agriculture, notifying, pursuant to law, as to the intention of the Departments of the Army and Agriculture to interchange jurisdiction of civil works and Forest Service acquired lands at Sam Rayburn Dam and Reservoir project, Texas (with accompanying papers); to the Committee on Agriculture and Forestry.

REPORT OF FEDERAL CONTRIBUTIONS—PERSONNEL AND ADMINISTRATION—OBLIGATIONS BY STATES

A letter from the Director, Defense Civil Preparedness Agency, transmitting, pursuant to law, the report of Federal contributions—personnel and administrative, obligations by States, for the fiscal year ending June 30, 1975 (with an accompanying report); to the Committee on Armed Services.

PROPOSED STANDARDS, RULES AND REGULATIONS PROMULGATED BY THE COST ACCOUNTING STANDARDS BOARD

A letter from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, proposed standards, rules, and regulations promulgated by the Cost Accounting Standards Board (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED AMENDMENTS TO THE PUBLIC UTILITY HOLDING COMPANY AND FEDERAL POWER ACTS

A letter from the Chairman, Federal Power Commission, transmitting a draft of proposed legislation to provide for the transfer to the Federal Power Commission of all functions and administrative authority now vested in the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 (with accompanying papers); to the Committee on Commerce.

U.S. RAILWAY ASSOCIATION FINAL SYSTEM PLAN

A letter from the Chairman of the Board, U.S. Railway Association, transmitting, pursuant to law, a supplement to the final system plan submitted on July 26, 1975 (with an accompanying document); to the Committee on Commerce.

PROPOSED AMENDMENT TO THE FEDERAL POWER ACT

A letter from the Chairman, Federal Power Commission, transmitting a draft of proposed legislation to amend section 206 of the Federal Power Act (with accompanying papers); to the Committee on Commerce.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on examination of financial statements pertaining to insurance operations of the Federal Housing Administration, fiscal year 1974, Department of Housing and Urban Development (with an accompanying report); to the Committee on Government Operations.

LOWER ST. CROIX NATIONAL SCENIC RIVERWAY—BOUNDARIES, CLASSIFICATION, AND DEVELOPMENT PLAN

A letter from the Secretary of the Interior, transmitting, pursuant to law, boundaries, classification, and development plan for the Lower St. Croix National Scenic Riverway, Minnesota and Wisconsin (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON THE MORMON BATTALION TRAIL

A letter from the Acting Secretary of the Interior, transmitting, pursuant to law, a report on the Mormon Battalion Trail (with an accompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION FOR DIVESTITURE FROM THE UNITED STATES OWNERSHIP OF THE MAR-A-LAGO NATIONAL HISTORIC SITE, FLORIDA

A letter from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide for divestiture from the United States of ownership of the Mar-A-Lago National Historic Site, Fla., and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

APPLICATION FOR SUPPLEMENTAL LOAN—SEMITROPIC WATER STORAGE DISTRICT, WASCO, KERN COUNTY, CALIF.

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, an application by the Semitropic Water Storage District on behalf of the Buttonwillow Improvement District of Wasco, Kern County, Calif., for a supplemental loan under the Small Reclamation Projects Act (70 Stat. 1044, as amended) (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON ADMINISTRATION OF THE FEDERAL METAL AND NONMETALLIC MINE SAFETY ACT

A letter from the Acting Secretary of the Interior, transmitting, pursuant to law, the annual report on administration of the Federal Metal and Nonmetallic Mine Safety Act (Public Law 89–577) (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the President pro tempore:

A joint resolution from the Legislature

of the State of California. Referred to the Committee on Banking, Housing, and Urban Affairs:

"SENATE JOINT RESOLUTION NO. 12—RELATIVE TO FEDERAL-GUARANTEED OR INSURED MORTGAGES

"Whereas, At various times the 10-percent usury limitation in the State of California has and may again severely limit access to national and international secondary money markets by originators and sellers of home loans; and

"Whereas, The constitutional usury limitation in California precludes that segment of the California lending industry most interested and able to originate home loans for secondary markets from providing this service in times of high interest rates; and

"Whereas, The cyclical nature of the homebuilding industry, which is so important to the California economy, is often adversely affected by lack of available financing through FHA/VA, Federal National Mortgage Association, Government National Mortgage Association and the Federal Home Loan Bank at precisely the time when jobs are most needed; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Congress of the United States is requested to enact legislation which will exempt from the usury limitation in the State of California all mortgages, or deeds of trust which are insured or guaranteed by the federal government, or a mortgage intended for delivery to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Bank or any other state or federal instrumentality; and be it further

"Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution from the Legislature of the State of California. Referred to the Committee on Commerce:

"SENATE JOINT RESOLUTION NO. 24

"Relative to the regulation of televised violence

"Whereas, Violent crime imperils the health and safety of every American, exposes many persons to suffering and even death, and decreases the quality of life by engendering a pervasive climate of fear; and

Whereas, Violent crime in the United States and in the State of California has in recent years shown an alarming rate of increase, and no readily available means of curbing this increase has been found; and

"Whereas, A particularly disturbing aspect of the current trend in violent crime is its rapid upsurge among juveniles; and

"Whereas, The character of much juvenile violence, in both school and nonschool situations, is marked by random, senseless aggression directed at both peer group and unknown individuals, and appears to be solely an expression of violence as an end in itself; and

"Whereas, Because of the deeply disturbing character of this trend, a thorough review should be made of the formative influences leading to attitudes which motivate widespread juvenile violence; and

"Whereas, It is widely suggested that television is a most significant influence upon most children growing up in America today, portraying many aspects of violence which many juveniles would not ordinarily witness in contemporary home, school, work, and criminal settings; and

"Whereas, The prevalence of televised violence may tend to habituate the viewer to violence as a mode of interpersonal relations, and may stimulate the tendency to indulge in violent acts by a vivid presentation of behavior and events beyond the scope of normal experience; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Federal Communications Commission to seriously consider the need for controls on televised violence and to determine ways in which televised violence may be reduced; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Chairman of the Federal Communications Commission, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution from the Legislature of the State of California. Referred to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION NO. 19— RELATIVE TO HEALTH BENEFIT PAYMENTS

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation providing for health benefit payments for the unemployed financed by general tax funds; and be it further

"Resolved, That the chief clerk of the assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

Resolution from the RAV TOV Committee To Aid New Immigrants, adopted by the Conference of Orthodox and Chassidic Jewry, relating to rejuvenation of traditional Orthodox Jewry as it lived and flourished in prewar Europe. Referred to the Committee on Foreign Relations.

A joint resolution from the Legislature of the State of California. Referred to the Committee on Commerce:

"SENATE JOINT RESOLUTION NO. 26—RELATIVE TO THE COLEMAN NATIONAL FISH HATCHERY

"Whereas the United States Bureau of Reclamation constructed the Coleman National Fish Hatchery in 1942 to mitigate the loss of salmon spawning grounds inundated by Shasta Dam, a unit of the Central Valley project; and

"Whereas expansion of the Central Valley project and development of hydroelectric facilities under Federal license has further impacted the natural production of both salmon and trout in northern California regions; and

"Whereas proposals for expanding the production capability of Coleman Hatchery have been evaluated and found to be both feasible and necessary: Now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to lend encouragement and provide funding for the expansion of facilities at the Coleman National Fish Hatchery; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Director of the Bureau of Sport Fisheries and Wildlife, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution from the Legislature of the State of California. Referred to the Committee on Public Works:

"SENATE JOINT RESOLUTION NO. 30—RELATIVE TO THE HIGHWAY TRUST FUND

"Whereas, H.R. 3786 was recently enacted as Public Law 94–30; and

"Whereas, The provisions of this law permit deferral of state matching funds for federal-aid highway projects until January 1, 1977; and

"Whereas, California has made use of this provision to advance construction projects as requested by the Federal Highway Administration; and

"Whereas, It is estimated that approximately $25 million will be needed for payment to the federal government by January 1, 1977; and

"Whereas, California is a donor state and is now receiving only approximately 65 percent of the revenue it contributes to the Highway Trust Fund; and

"Whereas, Such a low return is considered neither fair nor equitable; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend Public Law 94–30 (H.R. 3786) to exempt from the matching requirement of that law any state whose allocation from the Highway Trust Fund is less than 85 percent of the amount it contributes to that fund; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Transportation, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution from the Board of County Commissioners, Collier County, Fla., for the Federal Government to forego foreign aid until its budget is balanced. Referred to the Committee on Foreign Relations.

A resolution from the Board of County Commissioners, Collier County, Fla., that ballots not be printed in foreign languages. Referred to the Committee on Rules and Administration.

A resolution from the Board of County Commissioners, Collier County, Fla., to permit residents to retain fee title within the Big Cypress purchase area and to remain in their homes so long as they shall live. Referred to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on the Judiciary, with amendments:

S. 287. A bill to provide for the appointment of additional district court judges and for other purposes (Rept. No. 94–387).

By Mr. HRUSKA, from the Committee on the Judiciary, with amendments:

S.J. Res. 90. A joint resolution to authorize the President of the United States to designate "National Ski Week" (Rept. No. 94–389).

By Mr. HUMPHREY, from the Committee on Agriculture and Forestry, with an amendment:

S.J. Res. 121. A joint resolution to provide for quarterly adjustments in the support price for milk (Rept. No. 94–388).

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. BEALL:

S. 2397. A bill for the relief of John E. DeFreitas. Referred to the Committee on the Judiciary.

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 2398. A bill to authorize the establishment of the Eugene O'Neill National Historic Site, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOMENICI:

S. 2399. A bill to amend the Comprehensive Employment and Training Act of 1973 to permit certain Indian tribes to qualify as prime sponsors under title I of that act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. KENNEDY:

S. 2400. A bill to strengthen the minimum tax, and for other purposes. Referred to the Committee on Finance.

By Mr. FONG:

S. 2401. A bill to amend the Internal Revenue Code of 1954 to permit the deduction of all expenses for medical care of a taxpayer and his spouse if either of them attained the age of 65. Referred to the Committee on Finance.

S. 2402. A bill to amend section 37 of the Internal Revenue Code of 1954 to make the tax treatment of retirement income comparable to that of social security income. Referred to the Committee on Finance.

S. 2403. A bill to relieve a substantial number of elderly individuals of the necessity of filing a declaration of estimated tax with respect to income from pensions or retirement annuities or income from interest and dividends not in excess of $2,000 per year. Referred to the Committee on Finance.

By Mr. PACKWOOD (for himself, Mr. CURTIS and Mr. MATHIAS):

S. 2404. A bill to provide that income from certain public entertainment activities conducted by organizations described in section 501(c) (3), (4), or (5) shall not be unrelated trade or business income and shall not affect the tax exemption of the organization. Referred to the Committee on Finance.

By Mr. KENNEDY:

S. 2405. A bill to revise the Immigration and Nationality Act. Referred to the Committee on the Judiciary.

By Mr. HARTKE (for himself and Mr. PEARSON) (by request):

S. 2406. A bill to amend the Regional Rail Reorganization Act of 1973 to provide for the purchase of securities of the Consolidated Rail Corporation, and for other purposes. Referred to the Committee on Commerce.

By Mr. BUMPERS:

S. 2407. A bill to improve the administrative process by limiting the defense of sovereign immunity and for other purposes. Referred to the Committee on the Judiciary.

S. 2408. A bill to improve the administrative process by making Federal agencies more responsive to the will of the people as expressed by their elected representatives in Congress. Referred to the Committee on the Judiciary.

By Mr. BENTSEN (for himself and Mr. NELSON):

S. 2409. A bill to require committee reports on proposed legislation to contain statements of the reporting and recordkeeping requirements which will be imposed on private business as a result of the enactment of such proposed legislation. Referred to the Committee on Government Operations.

By Mr. HATHAWAY (for himself and Mr. BROOKE):

S. 2410. A bill to amend section 501(c)(5) of the Internal Revenue Code of 1954. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 2398. A bill to authorize the establishment of the Eugene O'Neill National Historic Site, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

THE EUGENE O'NEILL NATIONAL HISTORIC SITE

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to establish the Eugene O'Neill National Historic Site.

This bill is nearly identical to H.R. 9126 sponsored in the House by Congressman GEORGE MILLER.

It is similar to legislation I offered in the 91st and 92d and 93d Congresses to establish the Eugene O'Neill National Historic Site and the Las Trampas Ridge National Park. Since first authoring this legislation in 1970, the East Bay Regional Park District of Contra Costa County has purchased approximately 2,000 acres along Las Trampas Ridge, preserving it as open space. Eugene O'Neill's home located in the Las Trampas wilderness near Danville, Calif., is still in private ownership.

Tao House was the residence of Eugene O'Neill from 1937 to 1944. It was at Tao House that O'Neill wrote all of his last and probably best plays including "The Iceman Cometh"—1939, "Long Day's Journey Into Night"—1940, "Hughie"—1941, and his last play "A Moon for the Misbegotten"—1943. While at Tao House, he also wrote scenarios for a number of plays and revised "A Touch of Poet."

O'Neill lived at Tao House for more than 6 years—longer than he lived anywhere else. He called Tao House his "final home and harbor." With his wife, Charlotta Monterey, O'Neill designed the house. It was built with the cash award of $40,000 which O'Neill received when he won the Nobel Prize for literature in 1936.

The O'Neills titled the resident "Tao House" after the Chinese philosophy Taoism which stresses the natural life of harmony, simplicity, and peace. Not only does its name invoke a kind of oriental magic, but the architecture also reveals a strong Chinese influence.

In addition, the house emphasized the Taoist sense of inwardness which O'Neill felt himself. Although the house faced east across the valley toward Mount Diablo, its hall was so designed that the mountain could only be seen reflected in darkened mirrors. In this setting, O'Neill turned inward to interpret the tragedies of his own early life and create his own tragic drama, "Long Day's Journey Into Night."

There is always some danger in proclaiming an artist's greatness too soon after his death. The ages have a way of discovering the genius overlooked by his peers, and conversely, of deflating the overblown excesses of a period's adulation for its passing heroes.

But regardless of where time eventually ranks Eugene O'Neill in the heirarchy of American literary giants, there is no question that he is a solid literary figure of great creativity and that his works will remain an important study in the field of American letters.

Tao House is a significant element in the American literary heritage of the 20th century. I believe we have a responsibility to preserve it for future generations.

The East Bay Regional Park District has an option to purchase Tao House and the surrounding 14 acres for $225,000. The Eugene O'Neill Foundation has been established to receive funds from private sources to be used for matching Federal and State grants. Upon acquisition, the East Bay Regional Park District wishes to donate the property to the Federal Government.

The legislation I am introducing today would establish the Eugene O'Neill National Historic Site and permit the Secretary of the Interior to accept the property by donation or to purchase the property with donated funds. The bill also authorizes the Secretary to work together with the Eugene O'Neill Foundation to preserve, restore and adapt Tao House for public use.

Mr. President, 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. 2398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to accept the donation of, or purchase with funds donated for the acquisition of, all or any part of the property (comprising approximately fourteen acres) and improvements thereon at Danville, California, formerly owned by Eugene O'Neill. When acquired, such property shall be designated as the Eugene O'Neill National Historic Site and shall be used as a national public memorial and community cultural center in commemoration of the contribution of Eugene O'Neill to American literature and drama.

SEC. 2. The national historic site established pursuant to this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 461–467). The Secretary of the Interior is authorized to enter into cooperative agreements with the Eugene O'Neill Foundation, Tao House, to preserve, interpret, restore, program, adapt for public use and/or provide technical assistance for the Eugene O'Neill National Historic Site in accordance with the provisions of this Act.

SEC. 3. There is authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. DOMENICI:

S. 2399. A bill to amend the Comprehensive Employment and Training Act of 1973 to permit certain Indian tribes to qualify as prime sponsors under title I of that act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. DOMENICI. Mr. President, I would like to take this opportunity to speak on behalf of an amendment to title I of the Comprehensive Employment and Training Act of 1973 (Public Law 93–203) which I am introducing today.

CETA provides a much-needed program of funding for State and local prime sponsors to plan and operate manpower programs meeting local needs.

Title I provides for a program of financial assistance to plan and operate comprehensive manpower programs for the development and creation of job op-

portunities, and for training, education, and other services enabling individuals to secure and retain employment at their maximum potential. This includes a range of programs and activities encompassing outreach, counseling, and testing, referral, basic education, institutional and on-the-job training, supporting services, and subsidized employment programs with public and not-for-profit employers.

Titles II and III of CETA provide that Indian tribes or entities meeting specified criteria may act as prime sponsors to receive funding for specified comprehensive manpower programs. This means that Indian groups may receive direct funding under these titles.

Under title I, however, prime sponsors are limited to units of State or local government and do not specifically specify Indian groups or tribes. Thus the degree of participation by Indian tribes under title I is a matter to be decided by units of local or State government—not by the tribes themselves. Many tribal governments, particularly among the Pueblos, are recognized as a general local government, but title I of this act does not make this distinction. The amendment I am introducing would alter title I to allow Indian tribes on Federal reservations to act as prime sponsors as allowed under titles II and III, thereby receiving and administering title I grants directly.

My amendment would insure an enhanced degree of Indian control in the administration of title I manpower programs. I feel that such direct control is essential to the full implementation of Indian self-determination—a vital aspect of which is Indian control of manpower development. The concept of self-determination has as its goal the economic self-sufficiency of Indians based on expanded development and utilization of Indian resources. The means of achieving this goal are invitably dependent upon allowing Indians increased control in the administration and planning of assistance programs.

Maximum use of Indian resources—especially manpower resources—is far from a reality today. Consider, for example, the following statistics:

The Indian unemployment rate is nearly three times the national average. (1970 Census Figures)

Nearly 40% of Indians are living at or below the poverty level—as compared with 13.7% of the total US population. Moreover, these figures vary widely among geographic areas, with nearly 60% of Indians in some metropolitan areas below the poverty level, and up to 80% on some reservations. (1970 Census Figures)

Per capita annual income is estimated to average approximately $1,450. (BIA estimate, 1975)

Thus, the development of job skills and income is of vital importance to increasing the use of Indian manpower resources—especially the development of job skills which can be used on or near the reservation.

My amendment would be especially valuable in this regard, since Indian tribes themselves can assess their own needs and plan their response to those needs, far better than can units of State and local government who cannot view the issues at firsthand.

Already, the self-determination process in regard to other Federal programs is underway. It is essential to provide the same opportunities with respect to title I of CETA.

Self-determination is the hope of the future for the American Indian; it is his chance to achieve in full his long-denied share of the American dream. I, therefore, offer this amendment in the hope and expectation that its enactment will constitute a significant step toward achievement of this goal. It is in the American tradition that all men and women should have the opportunity to control their own destinies. It is the opportunity for this control which self-determination presents to the first Americans, as we approach the 200th anniversary of our Nation. Let us, at this crucial juncture in our history, make good on our promise of equal opportunity for all who live in this great land.

By Mr. KENNEDY:

S. 2400. A bill to strengthen the minimum tax, and for other purposes. Referred to the Committee on Finance.

STRENGTHENING THE MINIMUM TAX

Mr. KENNEDY. Mr. President, I send to the desk a bill to reform the minimum tax, and I ask that it be referred to the Committee on Finance.

The purpose of the bill is to close two of the most serious loopholes in the minimum tax: The so-called "deduction for taxes paid" and the $30,000 exemption. On the basis of estimates for calendar year 1975, the amendment will generate increased tax revenues of $549 million from individuals and $200 million from corporations.

The minimum tax is the imaginative technique enacted by Congress as part of the Tax Reform Act of 1969, in an effort to insure that all citizens with substantial income would pay at least some tax on their income, thereby ending the gross tax inequity by which thousands of wealthy taxpayers are able to use the loopholes in existing law to avoid large amounts of taxes they ought to pay, or even to avoid taxes altogether.

In effect, the minimum tax is supposed to be a "bucket under a sieve." It is designed to impose a modest tax on income that slips otherwise untaxed through the many loopholes and special preferences in the existing Revenue Code. If the minimum tax fulfills its function, no one with substantial income would be able to avoid paying a fair share of taxes on his income.

Under the present minimum tax, a person is taxed at the rate of 10 percent on the sum of his income from tax preferences, which include most, but not all, of the major tax loopholes, less a $30,000 exemption and less the amount of regular income taxes owed.

Unfortunately, the tax does not adequately fulfill its functions. In 1970, for example, the first full year of operation, the revenue yield was a paltry $121 million from individuals, compared to an anticipated yield of $290 million when it was enacted in 1969. In 1971, the yield was little better, only $169 million from individuals. In 1972, although the yield was somewhat higher, $206 million, it was still far below the substantial amounts that would be raised if the minimum tax really did its job. And in 1973, the most recent year for which information is available, the revenue yield declined to $182 million.

Because of the loopholes in the minimum tax—principally the deduction for taxes paid and the $30,000 exemption—its effective rate in 1971 on individuals was only 2.6 percent, compared to the statutory rate of 10 percent, and the effective rate on corporations was only 4.8 percent. And, as a result of the loopholes in the minimum tax, 75,000 individuals, reporting tax loophole income totaling $2.2 billion, paid no minimum tax at all. Similarly, 75,000 corporations, reporting tax loophole income totaling $1.6 billion, paid no minimum tax at all.

Moreover, as the preliminary figures recently published by the IRS for the 1973 tax year make clear, there are still many extremely wealthy individuals who pay no Federal income tax at all. According to these figures, as the following table indicates, the ranks of "zero taxpayers" included individuals with incomes over $1 million who paid no Federal income tax in 1973; there were over 3,000 persons with incomes over $50,000, and over 10,000 individuals with incomes over $30,000 who paid no such tax.

And these figures are only the tip of the iceberg. For every "zero" taxpayer in the table, there are dozens more waiting in the wings in each income class who use the loopholes in the minimum tax to reduce their taxes to near zero, paying only a small proportion of the taxes they reasonably ought to owe.

Adjusted gross income class	Zero taxpayers	Cumulative
Over $1,000,000	7	7
$500,000–$1,000,000	15	22
$200,000–$500,000	142	164
$100,000–$200,000	458	622
$50,000–$100,000	2,466	3,088
$30,000–$50,000	7,312	10,400

Because of the exemptions and deductions written in at the beginning and in subsequent years, the minimum tax is itself a loophole-ridden tax—minimum in impact as well as name. As such, the minimum tax is the most aptly named provision in the tax laws. Instead of being a "bucket under a sieve," it is, instead, simply another sieve under the existing sieve.

The first of the two reforms I propose would eliminate the deduction for taxes paid. This deduction entered the revenue laws as an 11th hour Senate floor amendment to the Tax Reform Act of 1969.

In effect, this particular deduction has become an "Executive Suite" loophole, because it allows highly paid executives to use the taxes they pay on their large salaries to shelter large amounts of tax preference income against the minimum tax. Similarly, wealthy doctors and lawyers are able to escape the minimum tax by using this deduction to offset their tax preference income from various investments and other sources.

But simply because a wealthy individ-

ual pays taxes on his salary just like everybody else, it does not follow that the taxes he pays should give him free entry to the "loophole club," by allowing him to amass large amounts of sheltered income, free not only from the regular tax, but free from the the minimum tax as well.

Thus, the minimum tax works reasonably well in the case of individuals who pay little or no regular taxes, but it contains a gaping loophole in the case of individuals who pay substantial regular taxes. There is no justification for allowing this loophole in the minimum tax to remain open. Simple tax justice requires that the minimum tax be applied evenhandedly to all tax preference income. The bill I am proposing today will achieve that result by eliminating the deduction for taxes paid.

The second reform would reduce the current $30,000 exemption from the minimum tax to $10,000. The existing exemption allows the first $30,000 in tax loophole income to escape the minimum tax altogether. I believe the current exemption is excessive, and that a level of $10,000 would eliminate much of the tax avoidance feature of the current law while insuring that the minimum tax comes into play at a reasonable level of tax preference income.

The $30,000 exemption is also the loophole used by President Nixon to reduce his minimum tax to zero in 1971 and 1972, and to near-zero in 1970. According to the information available, the President filed the required IRS form for the minimum tax for the years 1970, 1971, and 1972, since he had many thousands of dollars in tax preference income derived from preferences such as interest on investments, accelerated depreciation, and capital gains. Yet in only one of those years, 1970, did the President actually pay any minimum tax, and the amount paid that year was extremely small, $792.81. In the other 2 years, in spite of his sizable tax preference income, the President was able to use the $30,000 exemption in the law to reduce his minimum tax to zero.

As the following figures indicate, the $549 million in revenue gain from individuals would be derived almost entirely from taxpayers in the highest income brackets, with 61.2 percent of the gain coming from those with incomes over $100,000 a year, and with 79 percent coming from those with incomes over $50,000 a year:

REVENUE GAIN

Income class	Gain (millions)	Percent	Cumulative Percent
Under $5,000	$19	3.5	3.5
$5,000–$10,000	2	0.4	3.8
$10,000–$15,000	6	1.1	4.9
$15,000–$20,000	14	2.6	7.5
$20,000–$30,000	27	4.9	12.4
$30,000–$50,000	46	8.4	20.8
$50,000–$100,000	100	18.2	39.0
Over $100,000	336	61.2	100.0
Total	549	100.0	100.0

The proposed bill does not affect the 10 percent rate of the minimum tax or the list of tax preferences to which the minimum tax applies.

At the present time, the major preferences subject to the minimum tax are: Accelerated depreciation on real property, accelerated depreciation on personal property subject to a net lease, amortization of certified pollution control facilities, amortization of railroad rolling stock, stock options, reserves for losses on bad debts of financial institutions, depletion, capital gains, and rapid amortization of on-the-job training and child care facilities.

The major preferences not subject to the minimum tax are: Interest on State and local government bonds, intangible drilling and development expenses, interest and taxes on real estate during construction periods, the investment credit, gain on property transferred at death, and gain on appreciated property given to charity.

In the course of its current deliberations, the House Ways and Means Committee is examining the minimum tax and has already tentatively agreed on a number of reforms. My hope is that House action will be completed early this fall, in time for the Senate to act on the legislation before the end of the year. It is time for Congress to write an end to the era of the "zero" taxpayer and the serious inequity his presence causes in the Nation's tax laws.

Mr. President, 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. 2400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 56 of the Internal Revenue Code of 1954 (relating to imposition of minimum tax for tax preferences) is amended:

(a) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which the sum of the items of tax preference exceeds $10,000.";

(b) by striking out "$30,000" in subsection (b)(1)(B) and inserting in lieu thereof "$10,000"; and

(c) by striking out subsection (c).

SEC. 2. The amendments made by this section shall apply to taxable years beginning after December 31, 1974.

By Mr. FONG:

S. 2401. A bill to amend the Internal Revenue Code of 1954 to permit the deduction of all expenses for medical care of a taxpayer and his spouse if either of them attained the age of 65. Referred to the Committee on Finance.

S. 2402. A bill to amend section 37 of the Internal Revenue Code of 1954 to make the tax treatment of retirement income comparable to that of social security income. Referred to the Committee on Finance.

S. 2403. A bill to relieve a substantial number of elderly individuals of the necessity of filing a declaration of estimated tax with respect to income from pensions or retirement annuities or income from interest and dividends not in excess of $2,000 per year. Referred to the Committee on Finance.

Mr. FONG. Mr. President, today I am introducing, for appropriate reference, three bills containing long needed amendments to the Internal Revenue Code of 1954 that will greatly benefit the Nation's older Americans. These bills would:

First. Permit the deduction of all unreimbursed medical expenses for medical care of a taxpayer and spouse if either of them has attained the age of 65;

Second. Update the retirement income credit provisions of the Internal Revenue Code so as to restore and maintain equitable tax treatment for those retirees who receive no social security benefits, or very small payments; and

Third. Relieve a substantial number of elderly individuals of the necessity of filing a declaration of estimated tax with respect to income from pensions or retirement annuities, or from interest and dividends when such income is no more than $2,000.

FULL DEDUCTIBILITY OF MEDICAL EXPENSES FOR OLDER AMERICANS

My bill, S. 2401, to restore full tax deductibility of medical expenses for persons age 65 and over to the same extent as was applicable for them prior to 1967 is identical to bills I have introduced for this purpose during previous sessions of the Congress. Each day the need for adoption of this proposal becomes more imperative.

The need for action is shown by the history of the Social Security Amendments of 1965. Prior to its passage, older Americans enjoyed full deductibility of medical and drug expenses. With its enactment, however, this benefit was lost.

The reason given for deletion of this tax benefit at that time was that full deductibility of medical and drug expenses for persons past 65 was justified only during the period when there was no broad-coverage health insurance plan for older Americans. Having presumably provided such broad health insurance coverage in the form of medicare through the 1965 Social Security Amendments, Congress reasoned that the justification for continuing the full deductibility of unreimbursed medical expenses, and medicines and drugs for persons past 65 no longer existed.

Therefore, after the advent of medicare, the 3-percent and 1-percent limitations in computing the medical expenses deduction of persons age 65 and over were restored. Since then, only those medical expenses in excess of 3 percent of adjusted gross income have been deductible, and medicines and drugs have been treated as medical expenses only to the extent they exceed 1 percent of this adjusted gross income.

Despite medicare, however, medical expenses have remained a major cost to older Americans. The need for treating them as a fully deductible item for income taxes may, in fact, be even greater than was the case prior to passage of the Social Security Amendments of 1965.

Medicare reimbursements now account for less than 40 percent of the medical expenses of persons past 65. Because of

this, and the fact that medical expenses in general have been rising considerably since 1965, older Americans are finding that increasingly large portions of their retirement incomes are going to medical expenses. It is now more important than ever that we reinstate the full deductibility of unreimbursed medical costs as I propose in my bill.

FULL PARITY FOR THE RETIREMENT INCOME TAX CREDIT

My second older Americans tax relief bill, S. 2402, would make two changes in the current retirement income tax credit provisions of the Internal Revenue Code:

First. It would update the tax credit so as to give it full parity with the tax-free retirement income under social security, and

Second. It would provide that such tax parity would be maintained in the years ahead as social security benefits are increased.

Under present law, a single retiree is entitled to a tax credit of 15 percent on up to $1,524 income from private pensions and a married couple is entitled to the same credit on up to $2,286. Income eligible for the 15-percent tax credit must be reduced by social security and other tax-exempt pension income and by 50 percent of earned income before the tax credit is calculated.

The rationale of the retirement income credit is to provide equitable tax treatment to retirees who receive little or no social security income, in line with retirees receiving social security payments, which are entirely tax free. The $1,524 base income subject to the credit provided such equity when enacted 14 years ago. Since then social security benefits have increased considerably and have continued to be treated as tax free. As a result, the present maximum amount of non-social security income eligible for the credit is considerably below the maximum social security primary tax-free benefit of approximately $4,100 available for a retired worker and the maximum social security primary and supplementary tax-free benefit of approximately $6,050 for a retired worker and spouse.

My bill would apply the credit to the same income level or the maximum social security retirement benefit level paid to retired individuals and couples as such benefit level is certified each year by the Secretary of Health, Education, and Welfare.

Its immediate effect would be to raise the income subject to the retirement income tax credit to approximately $4,100 for an individual and $6,050 for a couple. The amount would be adjusted in the future as social security maximum retirement benefits increase so that the originally intended parity would be maintained on a constant basis.

I am strongly persuaded that such a permanent—and automatic—updating of the retirement income tax credit provision of the law is necessary because of the poor record we have had in the 14 years since the credit was last updated. Our failure to make changes has often worked a severe hardship on the many persons whose retirement income includes no social security payments, or whose social security benefits have been so low as to be of minor importance to them.

The people who would benefit from an updated tax credit include Federal retirees. But it also includes many others, such as teachers, police officers, firemen, and other State and local government employees who may have no social security coverage.

At a recent hearing of the Senate Special Committee on Aging in Chicago, for example, it was reported that there are now over 35,000 teacher retirees in Illinois who do not, as such, have social security. My bill would be of great assistance to many of these. Since their retirement income has no adjustment for cost of living, an updated retirement income credit can be doubly important to them.

In previous sessions of Congress, I have introduced a number of bills to update the retirement income tax credit—as have other Members. In each case I have tried to bring the tax credit fully into line with the tax-free status of social security retirement benefits. This is also the purpose of the bill I introduce today, but with a significant difference. By permanently tying the tax credit to the maximum social security benefit as certified each year by the Secretary of Health, Education, and Welfare, it would also assure that parity is maintained in the future.

With probable continuation of high inflation rates, the annual automatic adjustment in the income subject to the retirement tax credit becomes most important. Failure to include such a mechanism in any change in the law invites the prospect of inequities in the future comparable to those which now exist because of our failure to act during the past dozen years.

As a matter of fact, updating of the retirement income tax credit to any specific dollar amount—even if appropriate when introduced—is almost certain to be out of date by the time it is enacted and takes effect.

I urge the Congress to give flexibility and full parity to the retirement income tax credit provisions of the Internal Revenue Code by enacting my bill without delay.

It is my understanding that yesterday, as part of the tax reform bill on which it is now working, the House Ways and Means Committee, approved raising the income levels on which the retirement income tax credit is based to $2,500 for an individual and $3,750 for a couple.

Since this is identical to a bill I introduced April 4, 1973, I strongly approve this as a step in the right direction. The Ways and Means Committee action does not, however, reflect the increases in social security benefits which have occurred during the past 29 months as my bill does. Nor, so far as I can determine, does it make any provision for regular updating of the credit in the future. I hope, therefore, before final action is taken on the tax amendments, that they will be changed so as to include the more current provisions of the bill which I introduce today.

EXEMPTION OF MOST OLDER AMERICANS FROM DECLARATION OF ESTIMATED INCOME TAXES

Finally my third bill, S. 2403, amending the Internal Revenue Code would exempt a substantial number of persons past 65 from the requirement to file declarations of income tax estimates—with quarterly payments thereon—by exempting "retirement annuities and pensions" as well as wages and salaries from the declaration requirement, and by exempting $2,000 of interest and dividends from the declaration requirements, while still retaining the $200 current exemption for persons under 65.

Prior to retirement many Americans were never required to file a declaration of estimated tax because almost all of their wages were in the form of salaries and subject to withholding. Now all of a sudden after reaching 65 they must file a declaration of estimated tax-form 1040–ES if their estimated tax is $100 or more, and if their estimated gross income includes more than $500 of earned income not subject to withholding.

My bill would excuse those taxpayers who have attained the age 65 from filing 1040–ES forms—declarations of estimated tax—if their interest and dividend income did not exceed $2,000 regardless of the amount of their retirement or pension.

Thus, my bill eliminates this new and distressing form from being thrust upon the bewildered low and moderate income senior citizen, the very senior citizen who most likely would not be able to cope with or afford a professional tax consultant to file this new additional tax form. This bill, however, will not cost the Government anything since it does not waive the ultimate tax liability of the individual concerned.

It is my hope, Mr. President, that these three bills amending the Internal Revenue Code will go a long way to lightening the tax load on our alrealy overburdened senior citizens of America.

By Mr. PACKWOOD (for himself, Mr. CURTIS and Mr. MATHIAS):

S. 2404. A bill to provide that income from certain public entertainment activities conducted by organizations described in section 501(c) (3), (4), or (5) shall not be unrelated trade or business income and shall not affect the tax exemption of the organization. Referred to the Committee on Finance.

TAXATION OF FAIRS AND EXPOSITIONS

Mr. PACKWOOD. Mr. President, today I am introducing a bill which is vital to the continued financial vitality of fairs and expositions, one of America's most popular traditional events.

Under present law, an otherwise tax-exempt organization which regularly conducts a trade or business which is not substantially related to its exempt function is subject to Federal income tax on the income generated by that unrelated trade or business. However, the tax does not apply if the trade or business is substantially related to the prescribed purpose of the exempt organization.

For some years, questions have been raised as whether income from public

entertainment activities of fairs and expositions conducted by exempt organizations is subject to the tax on unrelated business income. The position of the Internal Revenue Service is that exempt organizations conducting public entertainment activities may be subject to assessment of tax for unrelated business income or termination of exemption.

The Internal Revenue Service lost the only Federal court case on this subject in 1955 (*Maryland State Fair and Agricultural Society* v. *Chamberlain*, (D.C.), 55–1 UTSC Para. 9399, 48 AFTR 1725). The court held that the operation of the public entertainment activity is substantially related to the agricultural purpose of the exempt organization conducting the fair. In spite of this court decision, the Internal Revenue Service has continued to seek to apply the tax on unrelated business income to the Maryland State Fair, and other fairs, such as the Los Angeles County Fair. This Internal Revenue Service action, the fact that several other organizations operating fairs and expositions have been selected for audit, and the fact that the Internal Revenue Service may contend that the information return filed by the exempt organization does not commence the running of the statute of limitations for purposes of assessment of the tax on unrelated business income, has threatened the affected organizations with the possibility of enormous accumulated and prospective tax liability and litigation expenses. For example, the Internal Revenue Service is seeking payment of back taxes from the early 1960's from the Maryland State Fair and the Los Angeles County Fair.

These events have threatened the financial stability and even continued existence of fairs and expositions in the United States. It is unfair and regrettable that fairs and expositions, traditionally one of the most heavily supported public activities throughout America, are being subjected to these pressures. State fairs—this does not include county or regional fairs—attracted more than 25 million patrons last year. Fairs remain popular and important to the areas they serve, including areas with an increasing urban population, in spite of competition from other entertainment activities.

The bill I am introducing today, with the cosponsorship of the distinguished Senator from Nebraska (Mr. CURTIS), and the distinguished Senator from Maryland (Mr. MATHIAS), is designed to rectify these problems. The bill applies to section 501(c) (3), (4), and (5) organizations, and has an effective date of taxable years beginning after December 31, 1959. This effective date provision is necessary because the Internal Revenue Service may contend that the information return filed by an exempt organization does not stop the statute of limitations for purposes of assessment of the tax on unrelated business income.

State statutes applying to public entertainment activities vary, and the specific provisions must be considered to assure equitable treatment of organizations located in different States. Therefore, this bill applies to the operation, by a section 501(c) (3), (4), or (5) organization, of a public entertainment activity if one of the following conditions is met:

First. The public entertainment activity is conducted in conjunction with a fair or exposition.

Second. The public entertainment activity is conducted in accordance with a State law limiting the conduct of such activities to exempt organizations or governmental units. This is consistent with the purpose of the tax on unrelated business income because there are no for-profit businesses competing with such public entertainment activities.

Third. The public entertainment activity is conducted pursuant to State law which grants such an organization a license to conduct not more than 30 days of such an activity on payment to the State of a lesser percentage of the revenue from the licensed activity than the State requires from organizations not described in section 501 (c), (3), (4), or (5). An example of such a State is Oregon.

The primary purpose of the tax on unrelated business income is to eliminate unfair competition by subjecting the unrelated business activities of exempt organizations to the same tax treatment as nonexempt businesses with which they compete. Oregon State law authorizes the licensing of a maximum of 10 days of racing to several county and regional fairs. A limited period of racing such as this does not usually justify construction of facilities at the fair sites, and so qualified organizations operating fairs usually use nearby commercial facilities. When the commercial facilities are used by exempt organizations, there is of course no competing for-profit business conducting racing at the same time. Therefore, it is consistent with the purposes of the tax on unrelated business income for income from such racing to be excluded from tax.

This legislation is vital to the continued financial vitality of fairs and expositions. I urge favorable Senate action.

Mr. CURTIS. Mr. President, I am pleased to join with the distinguished Senator from Oregon (Mr. PACKWOOD) and the distinguished Senator from Maryland (Mr. MATHIAS) in sponsoring legislation to clarify the application of the unrelated business income tax to public entertainment activities conducted by certain organizations which are otherwise exempt from Federal taxation.

I fully support the proposed legislation and, as the ranking minority member of the Committee on Finance, to which this bill will be referred, I shall work for its prompt consideration and enactment.

Under the bill, the tax on unrelated business income will not be applicable to public entertainment activities conducted by organizations described in section 501(c), (3), (4), or (5) of the Internal Revenue Code if, in a particular case, one of three specified conditions is met. One of these conditions is that the public entertainment activity be conducted in accordance with the provisions of State law which permit such an activity to be operated solely by an exempt organization or by an agency, instrumentality of subdivision of such State. Nebraska laws so provide.

The exclusion of activities conducted pursuant to such laws from the tax on unrelated business income is entirely proper. The primary purpose of the tax, since its enactment in 1950, has been to eliminate a source of unfair competition by placing the unrelated business activities of exempt organizations on the same tax basis as the nonexempt businesses with which they compete. In States having laws such as Nebraska, the critical element of unfair competition is necessarily lacking and there is therefore no reason to impose the tax. Quite frankly, I believe that this result can and should be reached under existing law. However, in view of the actions of the Internal Revenue Service described by Senator PACKWOOD, I believe that legislative action is necessary.

For these reasons, I am pleased to join as a cosponsor in this legislative effort and to work for its prompt enactment.

Mr. MATHIAS. Mr. President, I introduced S. 89 for the purpose of protecting the many worthwhile fairs across this country, which are dedicated to charitable purposes, from crippling taxation. At that time I thought my bill provided a complete and satisfactory solution to the problem. I have since learned that several important fairs would not be sufficiently protected by the provisions of my bill and for this reason I am pleased to cosponsor the legislation which Senator PACKWOOD introduces today. It is a balanced, reasonable and complete approach to the problem.

By Mr. KENNEDY:

S. 2405. A bill to revise the Immigration and Nationality Act. Referred to the Committee on the Judiciary.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS OF 1975

Mr. KENNEDY. Mr. President, I am introducing today a comprehensive bill to amend the Immigration and Nationality Act.

The bill is similar to bills I have introduced in previous years, and closely follows many long-standing legislative recommendations of the American Immigration and Citizenship Conference in New York and other expert bodies in immigration and refugee affairs. A bill with intent similar to this bill is also pending in the House of Representatives.

The proposed legislation goes a long way in continuing the reform effort initiated in the Immigration Act of 1965, which repealed the national origins quota system. Among other things, the bill strengthens the traditional immigration objective of family unity. It facilitates the admission of mentally retarded family members. It removes some needless barriers to naturalization—including those involving the English language requirement. And it provides special immigrant visas to applicants in Ireland, Holland, Germany, and other countries disadvantaged in the transition under the act of 1965.

And finally, Mr. President, the proposed legislation accomplishes two long-

sought objectives by those concerned with fair and humane immigration laws.

First, the proposed legislation refines and strengthens the new system established in 1965. It not only remedies the confused situation in the allocation of visas to applicants in Western Hemisphere countries—but it also provides a more orderly, flexible, and humane method of allocating visas to applicants of all countries, on a first-come, first-served basis.

And second, the proposed legislation establishes a new humanitarian policy of asylum for refugees and victims of natural disaster and war.

I would like to elaborate briefly on these two major objections.

REFINEMENT OF THE NEW SYSTEM ESTABLISHED IN 1965

Section 3 establishes a worldwide ceiling of 300,000 immigrants annually, exclusive of immediate family members of U.S. citizens and other special immigrants.

The worldwide ceiling becomes effective on July 1, 1978. In the interim, the present ceiling of 170,000 immigrants from countries in the Eastern Hemisphere continues to operate. The present ceiling of 120,000 immigrants from countries in the Western Hemisphere is raised to 130,000—and, owing to the special nature of the Cuban refugee program, refugees who adjust their status to permanent resident alien under the act of November 2, 1966, will not be counted against the ceiling.

Section 4 of the bill extends the present 20,000 annual limitation on immigration from any one country in the Eastern Hemisphere to Western Hemisphere countries as well—except that Canada and Mexico are given a maximum of 35,000 each.

Section 5 amends the preference system established in 1965. In addition to introducing flexibility into the allocation of visas among the seven preferences, this section applies the preference system on a worldwide basis simultaneously with the effective date of the world ceiling.

In the interim, the preference system, which is currently operative only in the Eastern Hemisphere is broadened to include the Western Hemisphere. But the preference system will operate separately in each hemisphere until July 1, 1978.

As suggested, section 5 of the bill introduces maximum flexibility into the allocation of visas within the preference system. This is accomplished, first of all, by making minor changes in percentage allocations from the pool of visas to each preference category, so as to better reflect the pattern of anticipated demands and, more importantly, by permitting the dropdown of unused visas in any category to meet excessive demand in the category that follows: Visas remaining after the dropdown through the seven preference categories will be issued to nonpreference immigrants.

ASYLUM FOR REFUGEES

Sections 5 and 7 of the bill establish a new humanitarian policy of asylum for refugees. First, the definition of a refugee is broadened from its present European and cold war framework, to include the homeless throughout the world. Second, the number of annual refugee admissions allocated within the preference system is raised from the current maximum of 10,200 to 36,000 Third, the Attorney General is authorized to parole into the country additional numbers of refugees in times of emergency, if he determines it to be in the public interest. This merely confirms what we have done over nearly 20 years in admitting those who left Hungary and Cuba and Czechoslovakia and Chile and Indochina. And, fourth, the bill provides a permanent authority to adjust the status of refugee parolees to that of permanent residence, thus avoiding the need for special legislation of the kind enacted for Hungarians and Cubans.

In practice, our country has always been generous in providing resettlement opportunities to refugees, but our permanent immigration law has never included a comprehensive asylum policy. As chairman of the Judiciary Subcommittee on Refugees, I believe it is extremely important that our law fully recognize refugee problems and resettlement needs throughout the world. The bill accomplishes this objective.

IMMIGRATION REFORM: A TRIBUTE TO THE BICENTENNIAL

Mr. President, in July of 1963, President Kennedy sent to Congress legislative recommendations to eliminate the national origins quota system. Little more than 2 years later, on October 3, President Johnson signed into law the Immigration Act of 1965.

I said at the time that a measure of greatness for any nation is its ability to recognize past errors of judgment, and its willingness to reform its public policy. Through the act of 1965, and the elimination of the national origins quota system, we made a good beginning in basic policy governing those who seek admission to our land.

The accomplished reform broadened a central theme in American history—equality of opportunity. And it stood with other legislation of the sixties—in civil rights, poverty, education and health—to reaffirm our Nation's continuing pursuit of justice, equality and freedom.

But the act of 1965 was only the beginning of an important task. It did not include a number of additional and needed reforms. It failed to resolve a number of issues relating to immigration from Western Hemisphere countries. And it fell short of the desired flexibility in immigration policy recommended by the executive branch.

Since 1965, however, no new reform has been accomplished, even though it was generally recognized at the time that additional legislation would soon be needed. And this failure to act over the past decade has not only been detrimental to fulfilling the intent of the 1965 act—it has also created some serious problems, which urgently require the active attention of Congress and the administration.

It has perpetuated needless discriminations against visa applicants in Mexico and Canada and all countries in the Western Hemisphere. It has brought confusion in our traditional policy of welcome to refugees. And it has fostered undue harshness in the administration of the law. In short, it has brought a needless measure of chaos to a significant area of public policy and concern.

Mr. President, the bill I introduce today does not alter the general flow of immigration, but it does meet some pressing needs in the immigration field—nagging needs which both Congress and the administration have failed to meet, for too long. In all candor, I must say that it is difficult at this time in our Nation's life—when we are faced with disruptive problems at home and abroad—to concentrate effort and concern in the currently less dramatic aspects of our country's progress and pursuit of justice.

But there is work to do in perfecting the policy which governs one of the oldest themes in our Nation's history. And in this time of Bicentennial, I call upon the President to actively join with Congress in giving immigration policy the attention it needs and deserves. The reform effort must continue.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the text and a brief summary of the bill.

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

S. 2405

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 "Immigration and Nationality Act Amendments of 1975".

SEC. 2. Subsection (a)(27) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) an immigrant who is the spouse or child of a citizen of the United States or is the parent of a citizen of the United States at least twenty-one years of age: *Provided,* That in the case of a parent, the spouse and children of such a special immigrant shall be entitled to special immigrant status if accompanying or following to join him. The special immigrants in this subparagraph who are otherwise qualified for admission as immigrants shall be admitted as such, without regard to the numerical limitations in this Act."

(2) by striking out "carrying on the vocation of minister of a religious denomination" in subparagraph (D) and inserting in lieu thereof "performing duties which are related to the religious activities of a religious denomination"; and

(3) by amending subparagraph (E) to read as follows:

"(E) an immigrant who is an employee, or an honorably retired former employee, of the United States Government abroad, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: *Provided,* That the principal officer of a Foreign Service establishment, in his discretion, shall have recommended the granting of special immigrant status to such alien and the Secretary of State approves such recommendation and finds that it is in the National interest to grant such status."

SEC. 3. Section 201 of the Immigration and

Nationality Act (8 U.S.C. 1151) is amended to read as follows:

"SEC. 201. Exclusive of special immigrants defined in section 101(a)(27), and of alien refugees who may apply for adjustment of status to that of aliens lawfully admitted to the United States for permanent residence under the Act of November 2, 1966 (80 Stat. 1161; 8 U.S.C. 1255 note), the number of aliens who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, (a) shall not in any of the first three quarters of any fiscal year exceed a total of eighty thousand and (b) shall not in any fiscal year exceed a total of three hundred thousand: *Provided*, That, during the period from the effective date of the Immigration and Nationality Act Amendments of 1975 through June 30, 1978, the number of aliens specified in this section shall not in any of the first three quarters of any fiscal year exceed a total of forty-five thousand and shall not in any fiscal year exceed a total of one hundred seventy thousand for aliens ascribed to independent foreign countries of the Eastern Hemisphere, and (B) shall not in any of the first three quarters of any fiscal year exceed a total of thirty-five thousand and shall not in any fiscal year exceed a total of one hundred thirty thousand for aliens ascribed to independent foreign countries of the Western Hemisphere."

SEC. 4. (a) Subsection (a) of section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) by striking out "section 201(b),";

(2) by striking out "and the number of conditional entries" in the first proviso;

(3) by amending the second proviso to read as follows: "*Provided further*, That, notwithstanding the preceding proviso, the total number of immigrant visas made available to natives of any country contiguous to the United States shall not exceed thirty-five thousand in any fiscal year".

(b) Subsection (c) of such section is amended—

(1) by striking out "or an immediate relative of a United States citizen as specified in section 201(B),";

(2) by striking out "shall not exceed 1 per centum" and inserting in lieu thereof "shall not exceed 3 per centum".

SEC. 5. (a) Subsection (a) of section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking out "201(a)" and inserting in lieu thereof "201", and by striking out "or their conditional entry authorized, as the case may be," in the portion which precedes paragraph (1);

(2) by striking out "201(a)(ii)" each place it appears in paragraphs (1) through (6) and inserting in lieu thereof in each place "201";

(3) in paragraph (1), by striking out "20" and inserting in lieu thereof "10";

(4) in paragraph (2), by striking out "20" and inserting in lieu thereof "24", by inserting a comma and "or parents" after "unmarried daughters", and by inserting after "permanent residence" the following: ": *Provided*, That in the case of parents, such alien lawfully admitted for permanent residence must be at least twenty-one years of age";

(5) in paragraph (3), by striking out "10" and inserting in lieu thereof "12", and insert after "201(a)(ii)," the following: "plus any visas not required for the classes specified in paragraphs (1) and (2),";

(6) in paragraph (5), by striking out "24" and inserting in lieu thereof "20";

(7) in paragraph (6), by striking out "10" and inserting in lieu thereof "12", and inserting after "201(a)(ii)," the following: "plus any visas not required for the classes specified in paragraphs (1) through (5),"; and

(8) by amending paragraph (7) to read as follows:

"(1)(A) Visas shall next be made available, pursuant to such regulations as the Secretary of State may prescribe and in a number not to exceed 12 per centum of the number specified in secton 201, to alien refugees described in subparagraph (B), who are not firmly resettled in any country and apply for admission to the United States.

"(B) The term 'alien refugee' means (i) any alien (I) who is outside the country of his nationality or who, not having a nationality, is outside the country of his habitual residence, and who is unable or unwilling to return to such country because of persecution or well-founded fear of persecution on account of race, religion, nationality, membership of a particular social group or political opinion, or (II) who has been uprooted by catastrophic natural calamity or military operations and who is unable to return to his usual place of abode, and (ii) the spouse and children of any such alien, if accompanying or following to join him.".

(9) in paragraph (8), by striking out "(6) and less the number of conditional entries and visas made available pursuant to paragraph".

(b) Subsection (d) of such section is amended to read as follows:

"(d) Every immigrant shall be presumed to be a nonpreference immigrant until he establishes to the satisfaction of the consular officer and the immigration officer that he is entitled to a preference status under paragraphs (1) through (7) of subsection (a), or to a special immigrant status under section 101(a)(27). In the case of any alien claiming in his application for an immigrant visa to be a special immigrant under section 101(a)(27)(a) or to be entitled to preference immigrant status under paragraphs (1) through (6) of subsection (a), the consular officer shall not grant such status until he has been authorized to do so as provided by section 204."

(c) Subsections (f), (g) and (h) of such section are repealed.

SEC. 6. Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended—

(a) in subsection (a), by striking "or to an immediate relative staus under section 201(b)," and insert in lieu thereof "or to a special immigrant status under section 101(a)(27)(A),";

(b) in subsection (b), by striking "an immediate relative specified in section 201(b)" and insert in lieu thereof "a special immigrant specified in section 101(a)(27)(A)";

(c) in subsection (e), by striking "an immediate relative under section 201(b)" and insert in lieu thereof "a special immigrant under section 101(a)(27)(A)".

SEC. 7. (a) Paragraph (1) of subsection (a) of section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended to read as follows:

"(1) Aliens who are mentally retarded, except that any such alien may be granted a visa and admitted to the United States if otherwise admissible upon a showing that the parent or legal guardian of such alien will provide for the support of such alien;"

(b) Paragraph (4) of subsection (a) of section 212 of the Immigration and Nationality Act (8 U.S.C. 1182 (a)) is amended by striking "or a mental defect".

(c) Paragraph (14) of subsection (a) of such section is amended to read as follows:

"(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified to the Secretary of State and to the Attorney General that (A) there are not sufficient workers who are able, willing, qualified, and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a)(3) and (6), and to nonpreference immigrant aliens described in section 203(a)(8). The Secretary of Labor shall submit quarterly to the Congress a report containing complete and detailed statements of facts pertinent to the labor certification procedures including, but not limited to, lists of occupations in short supply or oversupply, regionally projected manpower needs, as well as up-to-date statistics on the number of labor certifications approved or denied;".

(d) Paragraph (24) of subsection (a) is repealed; (e) Subsection (b) of such section is amended by striking out "paragraph (25) of subsection (a)" at the first place it appears, and inserting in lieu thereof "paragraph (1) or (25) of subsection (a)".

(f) Subsection (d) of such section is amended by adding at the end thereof a new paragraph as follows:

"(9)(A) If the Secretary of State shall find that it is in the national interest that all, or any portion, of the members of a group or class of persons who meet the qualifications set forth in section 203(a)(7) be paroled into the United States, he may recommend to the Attorney General that such aliens be so paroled.

"(B) Upon receipt of a recommendation pursuant to subparagraph (A) of this paragraph and after appropriate consultation with the Congress, the Attorney General may parole into the United States any alien who establishes to his satisfaction, in accordance with such regulations as he may prescribe, that he is a member of the group or class of persons with respect to whom the Secretary of State has made such recommendation and that he is not firmly resettled in any country. The conditions of such parole shall be the same as those which the Attorney General shall prescribe for the parole of aliens under paragraph (5) of this subsection.

"(C) Any alien paroled into the United States pursuant to this paragraph whose parole has not theretofore been terminated by the Attorney General and who has not otherwise acquired the status of an alien lawfully admitted for permanent residence shall, two years following the date of his parole into the United States, return or be returned to the custody of the Immigration and Naturalization Service and shall thereupon be inspected and examined for admission into the United States in accordance with the provisions of sections 235, 236, and 237 of this Act.

"(D) Notwithstanding the numerical limitations specified in this Act, any alien who, upon inspection and examination as provided in subparagraph (C) of this paragraph or after a hearing before a special inquiry officer, is found to be admissible as an immigrant as of the time of his inspection and examination except for the fact that he was not and is not in possession of the documents required by section 212(a)(20) shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival in the United States.".

(g) Subsection (g) of such section is amended by striking out "who is excludable from the United States under paragraph (1) of subsection (a) of this section, or any alien".

(h) Subsection (h) of this section is amended to read as follows:

"(h) Any alien, who is excludable from the United States under paragraph (9), (10), (12), or (19) of this section, who (A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immi-

grant visa, or (B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence (1) if it shall be established to the satisfaction of the Attorney General that (A) the alien's exclusion would result in hardship to such spouse, parent, or son or daughter of such alien, and (B) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States; and (2) if the Attorney General, in his discretion, and pursuant to such terms, conditions, and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa and for admission to the United States."

(i) Such section is amended by adding at the end thereof a new subsection as follows:

"(j) Any alien lawfully admitted for permanent residence whose principal, actual dwelling place is in a foreign country contiguous to the United States and who, subsequent to June 30, 1978, is returning from a temporary stay in such foreign country to seek or continue employment in the United States shall be admitted into the United States only if the Secretary of Labor has determined and certified to the Attorney General within six months prior to the date of admission that the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed, and if such certification has not been revoked on any ground. The provisions of this subsection shall be applicable to any aliens lawfully admitted for permanent residence, whether or not such aliens were so admitted prior to or on or after the date of enactment of this subsection."

SEC. 8. Subsection (a) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by striking "(a) an immediate relative within the meaning of section 201 (b) or".

SEC. 9. Section 223(b) (8 U.S.C. 1203) is amended to read as follows: "If the Attorney General finds (1) that the applicant under subsection (a) (1) has been lawfully admitted to the United States for permanent residence, or that the applicant under subsection (a) (2) has, since admission, maintained the status required of him at the time of his admission and such applicant desires to visit abroad and to return to the United States to resume the status existing at the time of his departure for such visit, (2) that the application is made in good faith, and (3) that the alien's proposed departure from the United States would not be contrary to the interests of the United States, the Attorney General may, in his discretion, issue the permit. The permit shall be valid for not more than three years from the date of issuance and shall be in such form as shall be by regulations prescribed for the complete identification of the alien."

SEC. 10. (a) Section 224 of the Immigration and Nationality Act (8 U.S.C. 1204) is amended by striking "immediate relative" each place it appears and inserting in lieu thereof "alien refugee".

(b) The section heading for such section is amended by striking "IMMEDIATE RELATIVE" and inserting in lieu thereof "ALIEN REFUGEE".

(c) The item relating to such section 224 in the table of contents of such Act is amended by striking "Immediate relative" and inserting in lieu thereof "Alien refugee".

SEC. 11. Section 241(a)(10) of the Immigration and Nationality Act (8 U.S.C. 1251 (a) (10)) is amended by striking out language within the parentheses and inserting in lieu thereof the following: "other than an alien who is a native-born citizen of any independent foreign country of the Western Hemisphere or of the Canal Zone".

SEC. 12. Section 244(d) of the Immigration and Nationality Act (8 U.S.C. 1254(d)) is amended by striking out "or is an immediate relative within the meaning of section 201 (b)".

SEC. 13. Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended to read as follows:

"SEC. 245. (a) The status of an alien, other than an alien crewman or any alien admitted in transit without visa under section 238(d), who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed: PROVIDED, That any alien who meets the qualifications of an alien refugee as set forth in section 203(a)(7) and determined by the Secretary of State, shall be eligible to make an application for adjustment regardless of such alien's means of entry into the United States.

"(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference or nonpreference visas authorized to be issued under section 203(a) within the class to which the alien is chargeable, for the fiscal year then current."

SEC. 14. The first proviso contained in paragraph (1) of section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended by striking out "or to any person who, on the effective date of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years" and inserting in lieu thereof the following: "or to any person who, on the date of the filing of his petition for naturalization as provided in section 334, is over fifty years of age and has been living in the United States for periods totaling at least ten years".

SEC. 15. (a) Notwithstanding the provisions of section 245 of the Immigration and Nationality Act and without regard to the numerical limitations specified in that Act, any alien who, on or before the effective date of this Act (1) has been granted by the Secretary of Labor an indefinite certification for employment in the Virgin Islands of the United States which has not subsequently become invalid, (2) has been inspected and admitted to the Virgin Islands of the United States, and (3) has continuously resided in the Virgin Islands of the United States for a period of at least five years as of the date of enactment of this Act, and the spouse and minor unmarried children of any such alien, may have his status adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence, or may be issued an immigrant visa, if the alien (i) is eligible to receive an immigrant visa, and (ii) is admissible to the United States.

(b) Upon approval of an application for adjustment of status under subsection (a) of this section, the Attorney General shall record the alien's lawful admission for permanent residence as of the date of the order of the Attorney General approving the application for adjustment of status.

(c) Applications for adjustment of status or for immigrant visas pursuant to the provisions of subsection (a) of this section may be initiated on or after the effective date of this Act, but not later than the last day of the third fiscal year beginning on or after the date of enactment of this Act. Applications for immigrant visas pursuant to the provisions of this action shall be considered in such order as the Secretary of State shall by regulations prescribe, except that no more than three thousand visas shall be issued in any one fiscal year.

(d) Except as otherwise provided herein, the definitions set forth in section 101 of the Immigration and Nationality Act shall be applicable.

SEC. 16. (a) Notwithstanding the numerical limitations in sections 201(a), 202(a), and 202(c) of the Immigration and Nationality Act, if in any fiscal year after June 30, 1974, the total number of immigrants admitted, or aliens who were adjusted to permanent resident status in the United States under the Immigration and Nationality Act, from any foreign state under paragraphs (1) through (6) and paragraph (8) of section 203(a) of such Act was less than three-fourths of the average annual number of such visas made available to immigrants from such foreign state under such Act during the ten-fiscal-year period beginning July 1, 1955, there shall be made available to immigrants from such foreign state an additional number of visas for the succeeding fiscal year equal to the difference between the number of visas made available to them under paragraphs (1) through (6) and paragraph (8) of section 203(a) of such Act in the preceding fiscal year and three-fourths of such average number, except that the number of such additional visas made available in any fiscal year to immigrants from such foreign state shall not exceed seven thousand five hundred. The additional visas authorized by the preceding sentence for immigrants from such foreign state shall be made available as follows:

(1) 40 per centum of the additional visas shall be made available to immigrants entitled to a preference status under paragraph (1), (2), (3), (4), or (5) of section 203(a) of the Immigration and Nationality Act, except that no more than 8 per centum of the additional visas may be made available to immigrants entitled to a preference status under any one of such paragraphs.

(2) 30 per centum of the additional visas plus any visas not issued under paragraph (1) shall be made available to immigrants entitled to a preference under paragraph (6) of section 203(a) of the Immigration and Nationality Act.

(3) 30 per centum of the additional visas plus any visas not issued under paragraph (1) or (2) shall be made available to immigrants who are not entitled to a preference under section 203(a) of the Immigration and Nationality Act.

In the case of immigrants entitled to a preference under paragraph (1), (2), (3), (4), (5), or (6) of section 203(a) of the Immigration and Nationality Act, the additional visas authorized by this subsection shall be issued in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204 of such Act. In the case of immigrants not entitled to a preference under section 203(a) of the Immigration and Nationality Act, such visas shall be made available in the chronological order in which such immigrants qualify. The provisions of section 212 (a) (14) of the Immigration and Nationality Act shall not apply in the determination of an immigrant's eligibility to receive any visa authorized to be issued under this Act.

(b) No alien shall be issued a visa under the first section of this Act, nor have his status adjusted to that of a permanent resident alien under such first section, after the expiration of the four-fiscal-year period beginning with the first fiscal year commencing on or after the date of enactment of this Act.

(c) Except as otherwise specifically pro-

vided in this Act, the definitions contained in section 101 (a) and (b) of the immigration and Nationality Act shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.

SEC. 17. Section 21 of the Act of October 3, 1965 (79 Stat. 916, 920), is hereby repealed.

SEC. 18. (a) The amendments made by this Act shall not operate to affect the entitlement to immigrant status or the order of consideration for issuance of an immigrant visa of an alien entitled to a preference status, under section 203(a) of the Immigration and Nationality Act, as in effect on the day before the effective date of this Act, on the basis of a petition filed with the Attorney General prior to such effective date.

(b) An alien chargeable to the numerical limitation contained in section 21(a) of the Act of October 3, 1965 (79 Stat. 921) who established a priority date at a consular office on the basis of entitlement to immigrant status under stautory or regulatory provisions in existence on the day before the effective date of this Act shall be deemed to be entitled to immigrant status under section 203(a)(8) of the Immigration and Nationality Act, as amended by section 5 of this Act. The numerical limitation to which such an alien shall be chargeable shall be determined as provided in sections 201 and 202 of the Immigration and Nationality Act, as amended by this Act.

SEC. 19. The foregoing provisions of this Act, including the amendments made by such provisions, shall become effective on the first day of the first month which begins more than sixty days after the date of enactment of this Act.

SUMMARY OF IMMIGRATION BILL INTRODUCED

(By Senator EDWARD M. KENNEDY)

Section 1.—Designates the bill the "Immigration and Nationality Act Amendments of 1975."

Section 2.—Redesignates "immediate relatives" as special immigrants—provides special immigrant status to aliens "performing duties which are related to the religious activities of a religious denomination."

Section 3.—Provides for establishing a worldwide ceiling of 300,000 immigrants annually, exclusive of special immigrants, to become operative on July 1, 1978—in the interim the current ceiling of 120,000 for the Western Hemisphere is increased to 130,000—Cuban refugees who adjust their status to aliens lawfully admitted for permanent residence are removed from ceiling considerations.

Section 4.—Except for Canada and Mexico, extends to Western Hemisphere countries the 20,000 annual limitation on immigration from any one country which is currently applicable to countries in the Eastern Hemisphere—the annual limitation on Canada and Mexico is 35,000—raises from 200 to 600 the annual limitation on immigration from dependent areas.—

Section 5.—Amends the preference system.

(a) The preference system, currently operative only in the Eastern Hemisphere, becomes operative on a worldwide basis simultaneously with the effective date of the world ceiling—in the interim the preference system operates separately in each hemisphere.

(b) The percentum of first preference (unmarried sons and daughters of U.S. citizens) is changed from 20 to 10.

(c) The second preference, currently the spouses and unmarried sons and daughters of aliens lawfully admitted for permanent residence, is expanded to include parents of permanent resident aliens—the percentum is changed from 20 to 24.

(d) The percentum of third preference (members of professions or persons of exceptional ability in the sciences and arts) is changed from 10 to 12.

(e) The fourth preference (married sons or daughters of U.S. citizens) and its percentum of 10 remains unchanged.

(f) The percentum of fifth preference (brothers and sisters of U.S. citizens) is changed from 24 to 20.

(g) The percentum of sixth preference (skilled and unskilled workers in short supply) is changed from 10 to 12.

(h) The percent of seventh preference is changed from 6 to 12—instead of being given "conditional entry" in accordance with regulations prescribed by the Attorney General, refugees are issued regular immigrant visas in accordance with regulations prescribed by the Secretary of State—the definition of a refugee establishes a worldwide asylum policy for the United States: "The term 'alien refugee' means any alien who is outside the country of his nationality or who, not having a nationality, is outside the country of his habitual residence, and who is unable or unwilling to return to such country because of persecution or well-founded fear of persecution on account of race, religion, nationality, membership of a particular social group or political opinion, or who has been uprooted by catastrophic natural calamity or military operations. . . ."

(i) To permit maximum flexibility in the use of visas, available visas not required in any one preference are to be used in meeting excessive demand in succeeding preference categories—except the seventh—or in the non-preference category.

Section 6.—Technical amendments.

Section 7.—Facilitates the admission of the mentally retarded and others—provides a permanent authority for the Attorney General to parole refugees into the country for emergency reasons and subsequently adjust their status to permanent residence—regulates the flow of employable "commuter aliens" from Canada and Mexico.

Section 8.—Technical amendment.

Section 9.—Removes the renewal provision for re-entry permits, but extends their validity from one to three years—re-entry permits are required for aliens in the United States who wish to maintain their immigration status while temporarily outside of the country.

Section 10.—Technical amendments.

Section 11.—Technical amendments.

Section 12.—Technical amendments.

Section 13.—Provides for adjustment of status of Western Hemisphere aliens on the same basis as aliens from the Eastern Hemisphere—

Section 14.—Facilitates the naturalization of persons over 50 years who have been living in the United States for at least 10 years.

Section 15.—Establishes a temporary program to facilitate the adjustment of status of certain nonimmigrant aliens in the Virgin Islands.

Section 16.—Establishes a temporary program making additional immigrant visas available to certain countries disadvantaged in the transition from the national origins system to the first-come, first-served system, established by the Immigration Act of October 3, 1965.

Section 17.—Technical amendments.

Section 18.—Technical amendments.

Section 19.—Technical amendments.

By Mr. HARTKE (for himself and Mr. PEARSON) (by request):

S. 2406. A bill to amend the Regional Rail Reorganization Act of 1973 to provide for the purchase of securities of the Consolidated Rail Corporation, and for other purposes. Referred to the Committee on Commerce.

SECOND REGIONAL RAIL REORGANIZATION ACT AMENDMENTS OF 1975

Mr. HARTKE. Mr. President, Senator PEARSON and I are introducing, by request, the "Second Regional Rail Reorganization Act Amendments of 1975." It is my understanding that this legislative package was developed with the concurrence of the administration. It represents the financing package outlined in the final system plan of the association, and the Subcommittee on Surface Transportation of the Senate Commerce Committee has already held 2 days of hearings on this general proposition and the other railroad financing proposals that are currently pending before the Congress.

I ask unanimous consent that the bill be printed in the RECORD, together with a letter of transmittal from the Chairman of the U.S. Railway Association, Mr. Arthur Lewis.

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

S. 2406

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 "Second Regional Rail Reorganization Act Amendments of 1975."

GOVERNMENT INVESTMENT COMMITTEE

SEC. 2. Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended by redesignating subsections (i) and (j) thereof as subsections (j) and (k), respectively, and inserting a new subsection (i) reading as follows:

"(i) GOVERNMENT INVESTMENT COMMITTEE.—The Board of Directors of the Association shall have a Government Investment Committee which shall consist of the Chairman of the Board, the Secretary, and the Secretary of the Treasury or their duly authorized representatives. The Government Investment Committee shall be vested with the exclusive decisional power to (1) exercise or decline to exercise, as provided in the final system plan, the rights of the Association as holder of any securities of the Corporation issued to the Association under section 216 of this title, (2) make the affirmative findings and exercise any exclusive powers, as expressly provided in section 216 (b) of this title, and (3) exercise the authority expressly conferred on it under section 216(d)(2) of this title. The vesting of such exclusive decisional powers in the Government Investment Committee shall not be deemed to relieve the Board of Directors of the Association of any obligation to exercise all other decisional powers conferred on it under this Act, and the power to perform analyses and make advisory findings on any matter relevant to the role of the Association as an investor in the securities of the Corporation."

ASSOCIATION INVESTMENT IN CORPORATION

SEC. 3. (a) Section 202(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712(a)(2)) is amended to read as follows:

"(2) issue obligations under section 210 of this title; make loans under section 211 of this title; purchase or otherwise receive and hold securities (whether debt or equity) of the Corporation under section 216 of this title and exercise all rights, privileges and powers of a holder of any such securities; and issue certificates of value under section 306 of this Act;"

(b) Section 210(b) of the Regional Rail

Reorganization Act of 1973 (45 U.S.C. 720 (b)) is amended by striking everything following the phrase "of this Act" and adding the following:

": *Provided, however,* That after the date on which the Association first makes a purchase of securities under section 216 of this title, no additional obligations or proceeds thereof may be issued or made available to the Corporation under this section, and the aggregate amount of obligations of the Association which may be outstanding at any one time under this section shall be reduced by $1,000,000,000."

(c) Title II of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711, et seq.) is amended by adding at the end thereof the following new section:

"PURCHASE OF DEBENTURES AND SERIES A PREFERRED STOCK

"SEC. 216. (a) GENERAL.—The Association is authorized, in accordance with the provisions of this section and such rules and regulations as it may prescribe, to invest from time to time in the securities of the Corporation by purchasing up to $100,000,000 principal amount of Debentures issued by the Corporation and, after the acquisition of such Debentures, up to $850,000,000 principal amount of the Series A Preferred Stock of the Corporation and, subject to the conditions prescribed in subsection (b) of this section, up to an additional $250,000,000 principal amount of the Series A Preferred Stock of the Corporation.

"(b) PURPOSES AND PROCEDURE FOR INVESTMENT.—The Association shall purchase Debentures and thereafter Series A Preferred Stock of the Corporation, in accordance with terms and conditions governing such purchases, which shall be jointly prescribed by the Board of Directors of the Association and the Government Investment Committee, at such times and in such amounts as may be required and requested by the Corporation to provide for the modernization, rehabilitation and maintenance of rail properties of the Corporation; for the acquisition of equipment and other capital needs; for the refinancing of indebtedness incurred by the Corporation under section 211 of this title or incurred under Section 215 of this title and assumed by the Corporation; or to provide working capital as contemplated by the final system plan. Purchases of up to $1,000,000,000 of Debentures and thereafter of up to $850,000,000 of Series A Preferred Stock shall be made by the Association as required and requested by the Corporation unless the Government Investment Committee makes an affirmative finding that (1) the Corporation has failed in any material respect to comply with any covenant or undertaking made to the Association and such failure remains uncorrected, (2) the Corporation has failed substantially (as determined by performance within margins jointly prescribed by the Board of Directors of the Association and the Government Investment Committee) to attain the overall operating and financial results projected in the final system plan, as they may be jointly modified by the Board of Directors and the Government Investment Committee, or (3) taking into consideration all relevant factors, including its overall operating and financial results, it is not reasonably likely that the Corporation will be able to become financially self-sustaining without requiring Federal funds in excess of the amount authorized in this section: *Provided, however,* That the Government Investment Committee shall not be required to make any finding except as a condition for denying such approval. If the Government Investment Committee makes such a finding, it may (1) direct the Association not to purchase Debentures and Series A Preferred Stock of the Corporation after the date of such determination, or (11) notwithstanding the provisions of subsection (d)(1) of this section, approve the purchase by the Association of Debentures and Series A Preferred Stock of the Corporation after the date of such determination only in such amounts, at such times, and on such terms and conditions as the Government Investment Committee determines to be appropriate to the role of the Association as an investor in the Debentures and Series A Preferred Stock of the Corporation. After the purchase of $1,000,000,000 of Debentures and $850,000,000 of Series A Preferred Stock, the Association, acting through the Government Investment Committee, may approve purchases, upon such terms and conditions as the Committee deems appropriate, of up to an additional $250,000,000 of Series A Preferred Stock.

"(c) TERMS AND CONDITIONS.—The Debentures and the Series A Preferred Stock shall have such terms and conditions not inconsistent with the final system plan as may be prescribed by the Board of Directors of the Association: *Provided, however,* That any terms and conditions which prescribe covenants or undertakings referred to in subsection (b), clause (1) of this section shall be prescribed jointly by the Board of Directors of the Association and the Government Investment Committee.

"(d) MODIFICATIONS AND WAIVERS.—(1) The Board of Directors of the Association and the Government Investment Committee, acting jointly, may agree with the Corporation to modify any of the terms and conditions governing the purchase of the securities of the Corporation held by the Association upon a finding that such action is necessary or appropriate to achieve the purposes of this Act or the goals of the final system plan. The Board of Directors of the Association and the Government Investment Committee may jointly agree with the Corporation to modify any terms and conditions of the securities of the Corporation which prescribe covenants or undertakings referred to in subsection (b), clause (1) of this section, and the Board of Directors of the Association may agree with the Corporation to modify any other terms and conditions of the securities of the Corporation in a manner not inconsistent with the final system plan.

(2) The Government Investment Committee may, in its discretion and upon a finding that such action is necessary or appropriate to achieve the purposes of this Act or the goals of the final system plan, waive compliance with any term, condition, provision or covenant of the securities of the Corporation held by the Association, including without limitation any provision of such securities with respect to payment or redemption of principal or issuance price or payment of interest or dividends, or any term or condition governing the purchase of such securities.

"(e) APPROPRIATION.—There is authorized to be appropriated to the Association the sum of $2,100,000,000 to be used for the purchase of securities of the Corporation in accordance with this section. All sums received by the Association on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury."

(d) Section 202(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712 (e)) is amended by inserting after the words "obligations issued" in clause (4) a comma and the words "certificates of value issued, securities purchased;"

(e) Section 202(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712 (f)) is amended by adding after the word "section" in the first sentence the words "and receipts and disbursements under section 216 of this title and section 306 of this Act".

CAPITALIZATION OF CORPORATION

SEC. 4. Section 301(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 (e)) is amended by striking the first two sentences thereof and substituting the following:

"In order to carry out the final system plan, the Corporation is authorized to issue Debentures, Series A Preferred Stock, Series B Preferred Stock, common stock and other securities. Debentures and Series A Preferred Stock shall be issued initially to the Association. Series B Preferred Stock and Common Stock shall be issued initially to the estates of railroads in reorganization in the region and to railroads leased, operated, or controlled by railroads in reorganization in the region and to other transferors of rail properties in exchange for rail properties transferred to the Corporation pursuant to the final system plan."

CERTIFICATES OF VALUE

SEC. 5. (a) Section 303 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743) is amended:

(1) by adding ", certificates of value" after the word "securities" in subsections (c)(1)(A)(i); (c)(2), and (c)(3);

(2) by adding the words "and certificates of value" after the words "of the Corporation" in subsection (c)(2)(A); and after the words "Corporation's securities" in subsections (c)(2)(B) and (c)(2)(C); and

(3) by striking out "obligations of the Association" wherever it appears and inserting in lieu thereof "certificates of value issued by the Association"; and by striking "obligations" each other time it appears and inserting in lieu thereof "certificates of value".

(b) Title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741, et seq.) is amended by adding the following section:

"CERTIFICATES OF VALUE

"SEC. 306. (a) GENERAL.—On the date the final system plan is delivered to the special court under section 303(a) of this title, the Association shall deliver to the Corporation for deposit with the special court under section 303(a)(1) of this title the certificates of value of the Association required by this section. The Secretary shall guarantee the payment of all certificates of value delivered to the Corporation in accordance with this section. All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America. Such obligations shall be valid and incontestable in the hands of a holder, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

"(b) NUMBER AND DISTRIBUTION.—The number of certificates of value shall be equal to the number of shares of Series B Preferred Stock of the Corporation required to be deposited by the Corporation with the special court under section 303(a)(1) of this title. The certificates of value shall be distributed by the special court under section 303(c)(4) of this title at the same time and to the same transferors in the same numbers of units as shares of such Series B Preferred Stock.

"(c) REDEMPTION.—(1) Certificates of value shall be redeemed by the Association on December 31, 1987 or such earlier date as the Association may determine and specify.

"(2) Each certificate of value shall be redeemed for an amount equal to its base value on the redemption date minus a sum calculated according to the formula prescribed in the final system plan to be set forth in the certificates to give effect to the fair market value of the Series B Preferred Stock, dividends paid thereon, other distributions made to the initial holders of such stock, and the fair market value of the common stock applicable to such certificate.

"(3) The base value of each certificate of

value shall be the lesser of (A) the value obtained by taking the constitutional minimum value (as determined by the special court), with such interest as may be constitutionally required to the redemption date, of the rail properties transferred to the Corporation by the transferor to which such certificate was intially distributed under section 303(c)(4) of this title, subtracting the value (as determined by the special court) of other benefits accruing to such transferor as a result of such transfer, and dividing the difference by the number of certificate of value distributed to such transferor or (B) the aggregate redemption value as certified by the Association under section 209(c) of this Act of the Series B Preferred Stock of the Corporation divided by the number of such shares issued, such value to be compounded at a rate of eight percent per annum from the date on which the special court enters its orders under section 303(b)(1) of this title to the date of redemption: *Provided, however,* That such aggregate redemption value shall not exceed the net liquidation value as then determined by the Association of the rail properties transferred by all transferors to the Corporation.

"(4) The fair market value of Series B Preferred Stock and of common stock shall be determined, in accordance with regulations prescribed by the Association, on the basis of the average price of each such security in an established market over a period of not less than 20 trading days preceding the redemption date, or, in the case of a security for which there is no established market, on the basis of the majority vote of three experts in the valuation of securities, one to be selected by the Association acting through the Government Investment Committee, one to be selected by the directors of the Corporation elected by the holders of the security to be valued, and one to be selected by the other two.

"(d) AUTHORIZATION FOR APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary such amounts as are necessary to discharge the obligations of the United States arising under this section."

(c) Section 210(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(e)) is amended by inserting after the word "section" in the first sentence thereof the following:

"or under section 306(a) of this Act".

DIRECTORS OF THE CORPORATION

SEC. 6. (a) Section 301(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(c)) is amended by striking the second sentence thereof and substituting the following sentence:

"The members of the Executive Committee of the Association shall also adopt the initial by-laws of the Corporation and serve as the Board of Directors until all of the members of the Board of Directors have been selected in accordance with subsection (d) of this subsection."

(b) Section 301(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(d)) is amended to read as follows:

"BOARD OF DIRECTORS.—The Board of Directors of the Corporation shall consist of 15 individuals selected in accordance with the articles and by-laws of the Corporation as follows: six individuals appointed by the President by and with the advice and consent of the Senate, the President of the Association, two individuals selected by the holders of the Debentures and Series A Preferred Stock of the Corporation, voting as a class, the Chairman and President of the Corporation, two individuals selected by the holders of the Series B Preferred Stock of the Corporation, and two individuals selected by the holders of the common stock of the Corporation. Beginning on the sixth anniversary of the date the special court issues the orders described in section 303(b)(1) of this title, one director designated at the time of his appointment by the President from among the Presidential appointees shall resign when the aggregate outstanding principal amount of debt securities and the original issue price of equity securities of the Corporation held by the Association is reduced below $2,000,000,000, and one such director designated at the time of his appointment shall resign for each $400,000,000 reduction in such aggregate amount thereafter. The President of the Association and the two directors selected by the holders of the Debentures and Series A Preferred Stock of the Corporation shall resign when the Association no longer holds any securities of the Corporation issued to it pursuant to section 211 or section 216 of this Act."

(c) Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and inserting a new subsection (f) reading as follows:

"(f) For and during the period between the deposit of securities of the Corporation with the special court in accordance with section 303(a) of this title and the distribution of such securities in accordance with section 303(c) of this title, the special court may appoint one or more voting trustees for each class of securities so deposited. Any voting trustees shall exercise the rights of holders of such securities in behalf of the distributees as their interests may appear."

SUPPLEMENTARY ASSISTANCE

SEC. 7. Title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741, et seq.) is amended by adding the following section:

"SUPPLEMENTARY ASSISTANCE

"SEC. 307 (a) PURPOSES.—The Secretary is authorized to provide financial assistance in the form of grants or loans to, or by the acquisition of securities of, the Corporation or other railroads, any State or local or regional transportation authority, or any other responsible person, for the purposes of providing supplementary assistance to the Corporation, or facilitating the implementation of a supplementary transaction.

"(b) TERMS AND CONDITIONS.—Financial assistance shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate. Loans shall bear interest at a rate not less than the greater of a rate determined by the Secretary of the Treasury taking into consideration (1) the rate prevailing in the private market for similar loans as determined by the Secreary of the Treasury, or (2) the current average yield on outstanding marketable obligations of the Association issued under section 210 of this Act with remaining periods of maturity comparable to the average maturities of such loans, plus such additional charge, if any, toward covering costs of the Secretary as the Secretary may determine to be consistent with the purposes of this Act.

"(c) LOAN PREREQUISITES.—The Secretary shall make a finding in writing, before making a loan to any applicant under this section, that—

"(1) the loan is necessary to achieve the purposes of this Act;

"(2) he is satisfied that the business affairs of the applicant will be conducted in a reasonable and prudent manner; and

"(3) the applicant has offered such security as the Secretary deems necessary to protect reasonably the interests of the United States.

"(d) POLICY.—It is the intent of Congress that loans made under this section shall be made on terms and conditions which furnish reasonable assurance that any borrower will be able to repay them within the time fixed and that the purposes of this Act are reasonably likely to be achieved."

"(e) LOAN MODIFICATIONS.—The Secretary is authorized to modify, upon agreement with the borrower, or to waive any provision of a loan under this section, including without limitation any provision with respect to payment of interest or principal, upon a finding by the Secretary that the modification or waiver is necessary or appropriate to achieve the purposes of this section."

"(f) AUTHORIZATION.—There are authorized to be appropriated to the Secretary $400,000,000, to remain available until expended, to carry out the purposes of this section."

TRANSFERS INVOLVING PROFITABLE RAILROADS

SEC. 8. (a) Section 214(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a)) is amended by adding the following at the end thereof:

"There are hereby authorized to be appropriated to the Secretary such amounts as may be necessary to discharge the obligations of the United States of America arising under section 303(c)(5) of this Act."

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)(3)) is amended by adding at the end thereof the following:

"(5) Where, pursuant to an explicit recommendation in the final system plan, the Association certifies, at the time of delivery of a certified copy of the final system plan to the special court under section 209(c) of this Act, that finality of the terms of specified conveyances of rail properties to a profitable railroad is in its opinion essential to the achievement of the basic industry structure recommended in the final system plan, then the United States of America may, in its discretion, represent such profitable railroad in any proceedings before the special court that could result in a judgment against such profitable railroad under section 303(c)(3) of this title, and the United States of America shall pay any judgment entered against such profitable railroad plus interest thereon at such rate as may be determined by the special court. Any profitable railroad which is represented by the United States of America shall cooperate diligently in whatever manner the United States of America shall reasonably request of it in connection with such proceedings.

(c) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771(1)) is amended by:

(i) amending clause (3) to read as follows:

"(3) 'protected employee' means any employee of—

"(A) an acquiring or selling railroad adversely affected by a transaction;

"(B) the Corporation who, immediately preceding such employment by the Corporation, was employed by a selling railroad and who was adversely affected by the sale of rail properties to the Corporation pursuant to an offer designated under Section 206(c)(2) of this Act; and

"(C) a railroad in reorganization who, in any such case, has not reached age 65 on the effective date of this Act."

(ii) striking the word "and" at the end of subsection (8), by striking the period at the end of subsection (9) and by inserting at the end thereof the following:

"; and

"(10) 'Selling railroad' means a railroad which sells rail properties pursuant to an offer designated under section 206(c)(2) of this Act; and"

(d) Section 508 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 778) is amended by—

(1) changing the title thereof to read "ACQUIRING AND SELLING RAILROADS";

(ii) inserting after the words "SEC. 508" the words "(a) ACQUIRING RAILROADS. —";

(iii) striking the word "303" and inserting in lieu thereof the word "206(d)(4)"; and

(iv) adding at the end thereof the following:

"For purposes of this subsection, the Corporation shall be deemed to be an acquiring railroad with respect to employees described in clause (B) of section 501(3) of this title.

"(b) SELLING RAILROADS.—A selling railroad shall offer such employment and afford such employment protection to its employees who are adversely affected by such sale as shall be agreed upon between the selling railroad and the representatives of such employees prior to said sale: *Provided, however,* That the protection and benefits provided for employees in such agreements shall be the same as those specified in section 505 of this title: *And provided further, however,* That unless and until such agreements are reached, the selling railroad shall not enter into selling agreements pursuant to section 206(d) of this Act."

SUPPLEMENTARY TRANSACTIONS

SEC. 9.(a) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended by striking "and" at the end of paragraph (14), striking the period at the end of paragraph (15) and adding the following:

"; and

"(16) 'Supplementary transaction' means any transaction proposed under section 305 (a) of this Act as supplemental to the final system plan within six years after the date on which the special court orders conveyances of rail properties to the Corporation under section 303(b), under which the Corporation (which for purposes of supplementary transactions shall be deemed to include any subsidiary or affiliate thereof) would (A) acquire rail properties not designated for transfer or conveyance to it under the final system plan, (B) convey rail properties to a profitable railroad, a subsidiary or affiliate of the Corporation or, other than as designated in the final system plan, to the National Railroad Passenger Corporation or to a State or a local or regional transportation authority, or, for rail use, to any other responsible person, or (C) enter into contractual or other arrangements with any person for the joint use of rail properties or the coordination or separation of rail operations or services."

(b) Title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741, et seq.) is amended by adding at the end thereof the following section:

"SUPPLEMENTARY TRANSACTIONS

"SEC. 305. (a) PROPOSALS.—If the Secretary, the Commission, or the Association determines that further restructuring of rail properties in the region through transactions supplemental to the final system plan would promote the establishment and retention of a financially self-sustaining rail service system in the region adequate to meet the needs of the region, the Secretary, the Commission or the Association, as the case may be, may develop proposals for such supplementary transactions as are necessary or appropriate to implement the needed restructuring. Transfers of rail properties included in proposals developed by the Association shall be limited to (1) rail properties which would have qualified for designation under section 206(c)(1)(A) of this Act but which were not transferred or conveyed under the final system plan, and which the Association finds to be essential to the Corporation's efficient operations, and (2) transfers, consistent with the final system plan, of rail properties from the Corporation to a subsidiary or affiliate thereof. Each proposal (other than a proposal developed by the Association) shall be submitted in writing to the Association and shall state the rail properties involved, the parties to any transactions, the financial and other terms of any transactions, the purposes of the Act or goals of the final system plan intended to be effectuated by any transactions, and such other information incidental thereto as the Association may prescribe. Within 10 days after receipt of a proposal developed by the Secretary or the Commission, and upon the development of a proposal developed by the Association, the Association shall publish in the Federal Register a notice which shall include a summary of the proposal and shall afford interested persons an opportunity to comment thereon.

"(b) EVALUATION BY ASSOCIATION.—The Association shall analyze each proposal for any supplementary transactions, taking into account the comments of interested persons and statements and exhibits submitted at any public hearings that may have been held, and shall, within 120 days after publication of the notice required by subsection (a), publish in the Federal Register a report evaluating the proposal. Such evaluation shall state whether the proposal for supplementary transactions is (1) in the public interest as defined by the purposes of the Act and the goals of the final system plan and (2) fair and equitable. Within 30 days after the Association publishes its report, each proposed transferor or transferee (other than the Corporation where it is a proposed transferor) shall notify the Association in writing whether the proposed supplementary transaction is acceptable to it. If any such proposed transferor or transferee fails to notify the Association that the proposed supplementary transaction is acceptable to it, no further administrative or judicial proceedings shall be conducted with respect to such proposed supplementary transaction.

"(c) SPECIAL COURT PROCEEDINGS.—(1) If the Association makes the determination that a proposal for supplementary transactions is in the public interest as defined by the purposes of this Act and the goals of the final system plan and is fair and equitable, the Association shall, within forty days after the publication of its report, petition the special court for an order finding that the proposal for supplementary transactions is in the public interest as defind by the purposes of this Act and the goals of the final system plan and is fair and equitable, and directing the Corporation to carry out the supplementary transactions specified in the proposal. If the Association determines that a proposal made by the Secretary is not in the public interest or is not fair and equitable, the Secretary may, if he determines that the proposal is in the public interest and is fair and equitable, petition the special court for an order finding that the proposal for supplementary transactions is in the public interest and is fair and equitable, and directing the Corporation to carry out the supplementary transactions specified in the proposal.

"(2) Within 180 days after the filing of a petition under paragraph (1) of this subsection the special court shall decide, after hearing, whether any proposed supplementary transactions, considered in their entirety, are in the public interest as defined by the purposes of this Act and the goals of the final system plan and are fair and equitable. If the special court determines that any such proposed supplementary transactions, considered in their entirety, are in the public interest and are fair and equitable, it shall, upon making such determination, issue such orders as may be necessary to direct the Corporation to consummate the transactions. If the special court determines either that any such proposed supplementary transactions, considered in their entirety, are not in the public interest or are not fair and equitable, it shall file an opinion stating its conclusion and the reasons therefor. In such event the Secretary may, within 30 days after the filing of such opinion, certify to the special court that the terms and conditions of the proposal have been modified consistent with the opinion of the court and are acceptable to each proposed transferor or transferee (other than the Corporation where it is a proposed transferor), and may petition the special court for reconsideration of the proposal as so modified. Within 90 days after the filing of such petition, the special court shall decide, after hearing, whether the proposal as modified by the Secretary's certification is in the public interest and is fair and equitable, and shall enter such further orders as are consistent with that determination.

"(3) The special court shall make such rules for the conduct of proceedings under this subsection, including any necessary provisions for the representation of interests not otherwise represented, as it deems necessary or appropriate.

"(4) In proceedings under this subsection, the special court is authorized to exercise the powers of a district judge with respect to such proceedings and such powers shall include those of a reorganization court.

"(5) Any evaluation of the Association or the Secretary shall not be reviewable in any court except the special court in accordance with the provisions of this section. The supplementary transactions shall not be restrained or enjoined by any court nor shall they be otherwise reviewable by any court other than by the special court to the extent provided in this section.

"(6) Notwithstanding any other provision of this Act, no findings, determinations, or proceedings shall be required with respect to any proposal for supplementary transactions other than as expressly set forth in this section.

"(d) 'FAIR AND EQUITABLE'.—For all purposes of this section, the term 'fair and equitable' means fair and equitable, in accordance with the standards applicable to the approval of a plan of reorganization or a step in such a plan under section 77 of the Bankruptcy Act (11 U.S.C. 205), to (1) the estates of railroads in reorganization, and railroads leased, operated, or controlled by railroads in reorganization, or other transferors who have conveyed rail properties under section 303(b) of this title in exchange for the securities of the Corporation, the securities of the Association and other profitable railroads and the other benefits provided by the Act, and to subsequent holders of such securities, if any, at the time of such supplemental transaction; and (2) to the holders of other securities of the Corporation. Whenever any property or securities of the Corporation are required to be valued in order to determine whether the terms of a supplementary transaction are fair and equitable, the special court shall give proper recognition to the contributions to the Corporation by all classes of security holders: *Provided, however,* That the special court shall not assign to the Series B Preferred Stock and common stock any values added to those securities by reason of the investment by the Association in the Debentures and Series A Preferred Stock issued by the Corporation in excess of any values required by constitutional principles applicable to a reorganization process.

"(e) APPEALS.—Judgments of the special court entering or denying orders pursuant to this section may be appealed directly to the Supreme Court of the United States in the same manner that an injunctive order may be appealed under section 1253 of title 28, United States Code: *Provided, however,* That such appeal is exclusive and shall be filed in the Supreme Court not more than 20 days after the entry of such judgment."

EXEMPTIONS

SEC. 10. (a) Section 601(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(a)(2)) is amended by strik-

ing the period at the end of such section and adding the following:

"and with respect to any action taken to formulate or implement any supplementary transaction as defined in section 102(16) of this Act."

(b) Section 601(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(b)) is amended by amending the title thereof to read "COMMERCE, BANKRUPTCY, AND SECURITIES LAWS", redesignating the existing provision as paragraph (1); striking the words "to the extent necessary" and substituting the word "taken"; striking everything that follows the word "plan" and inserting the following:

"where such action was in compliance with the requirements of such plan, or to any action taken to formulate or implement any supplementary transaction as defined in section 102(16) of this Act."

and by adding the following paragraph:

"(2) All securities of the Corporation issued to the Association as the initial holder or issued in connection with the transfer to the Corporation of rail properties under this Act shall be deemed for all purposes to have been issued subject to the provisions of section 20a of the Interstate Commerce Act, as amended (49 U.S.C. 20a)."

(c) Section 601(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(c) is amended by striking everything commencing with the word "before" and substituting the following:

"to formulate or implement the final system plan where such action was in compliance with the provisions of such plan, or to any action taken to formulate or implement any supplementary transaction as defined in section 102(16) of this Act."

DESIGNATIONS TO NATIONAL RAILROAD PASSENGER CORPORATION OUTSIDE NORTHEAST CORRIDOR

SEC. 11. Section 206(c)(1)(D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(D)) is amended by:

(a) inserting following the word "by" the word "(i)"; and

(b) striking the word "; and"; at the end thereof and adding the following:

"or (ii) the National Railroad Passenger Corporation to meet the needs of improved passenger service over intercity routes, other than the Northeast corridor, identified by the Association pursuant to the final system plan; and"

MISCELLANEOUS AMENDMENTS TO TITLE II

SEC. 12. (a) Section 201(h) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711(h)) is amended to read as follows:

"(h) EXECUTIVE COMMITTEE.—The Board of Directors of the Association shall have an executive committee which shall consist of the Chairman of the Board, the Secretary, the Chairman of the Commission or his duly authorized representative, and two other members who shall be selected by the members of the Board."

(b) Section 203(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 713(a)) is amended by striking the last sentence thereof.

(c) Section 206(d)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(3)) is amended by adding the following after the first sentence:

": *Provided, however,* That all determinations made by the Association in the correction to the preliminary system plan published on April 11, 1975 (40 Fed. Reg. 16377) shall be treated for all purposes as if they had been made upon adoption and release by the Association of the preliminary system plan; *provided further,* That all determinations made by the Commission with respect to said correction shall be treated for all purposes as if they had been made within 90 days after adoption and release by the Association of the preliminary system plan; *and provided further,* That all determinations made by the Commission with respect to acquisitions by profitable railroads referred to in any supplement to the preliminary system plan published under section 207(b)(2) of this title (45 U.S.C. —) shall be deemed to be timely made if made before adoption of the final system plan under section 207(c) (45 U.S.C. 717(c))."

(d) Section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719) is amended by inserting the following new subsection at the end thereof—

"(e) INJUNCTIVE AND DECLARATORY ACTIONS.—Notwithstanding any other provision of law, any action—

(1) for injunctive or other relief from enforcement, operation or execution of any part of this Act or from any action taken pursuant to authority purportedly conferred under this Act,

(2) for a declaratory judgment of the unconstitutionality of any part of this Act or of the illegality of any action or of any failure to take action pursuant to authority conferred or purportedly conferred under this Act, or

(3) to enforce or declare rights under this Act,

shall be within the exclusive jurisdiction of the special court. An order or judgment of the special court in any such action shall be reviewable by direct appeal to the Supreme Court of the United States: *Provided, however,* That any such appeal is exclusive and shall be filed not more than 20 days after the entry of such order or judgment."

(e) Section 210(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(c)) is amended by adding at the end thereof the following:

"All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America."

MISCELLANEOUS AMENDMENTS TO TITLE III

SEC. 13. (a) Section 301(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(f) is amended by striking the first sentence thereof.

(b) Section 303(c)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)(2)) is amended by striking out "shall—" and inserting "may do any or all of the following—" in lieu thereof, by striking out "and" at the end of paragraph (A), by striking everything before "order" in paragraph (B), by striking "and" at the end of paragraph (B), and by striking paragraph (C) and by inserting in lieu thereof the following:

"(C) enter a judgment against the Corporation if the judgment would not endanger the viability or solvency of the Corporation."

(c) Section 303(c)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)(4)) is amended by:

(1) striking "subsection (b)" therefrom and inserting "subsection (a)" in lieu thereof; and

(2) inserting after the word "region" the following words:

"and to railroads leased, operated or controlled by railroads in reorganization in the region and to other transferors of rail properties".

(d) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by adding "; and" at the end of subparagraph (7) and by striking therefrom the following:

", and (9) the Consolidated Rail Corporation to the extent provided in the Regional Rail Reorganization Act of 1973."

(e) Section 303(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(d)) is amended by striking out "5" and inserting "20" in lieu thereof and by striking out the last sentence.

(f) Section 403(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763(b)) is amended by inserting in the first sentence thereof after the word "assistance" the words "in the form of loans" and by striking the second sentence thereof.

ALTERNATIVE DESIGNATIONS TO PROFITABLE RAILROADS

SEC. 14. Section 206(c)(1)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(B)) is amended by inserting after the word "paragraph" the following words:

"and what alternative designations shall be made under this subparagraph".

AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNCTIONS OF THE ASSOCIATION

SEC. 15. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended by striking the words "not to exceed $40,000,000".

TRANSFERS TO SUBSIDIARIES OR AFFILIATES OF THE CORPORATION

SEC. 16. (a) Section 206(c)(1)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(A)) is amended by striking the semicolon and adding the following:

": *Provided, however,* That the Corporation shall, within 45 days following the effective date of the final system plan, give notice to the Association of which rail properties, if any, designated hereunder are to be transferred to a subsidiary or affiliate of the Corporation in the event that the Board of Directors of the Association finds that such transfer would be consistent with the final system plan,"

(b) Section 206(c)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(2)) is amended by striking the period and adding: "Any rail properties designated to be offered for sale to the Corporation may be sold instead to a subsidiary or affiliate thereof."

(c) Sections 206(d)(1), 209(c) and (d), 215(d), 303(c)(1)(A)(i), 303(c)(2)(A), 304(e), and 501(1) and (2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(1), 719(c) and (d), ——, 743(c)(1)(A)(i), 743(c)(2)(A), 744(e), and 771(1) and (2)) are amended by inserting following the word "Corporation" each time it appears in each of said sections the words "or any subsidiary or affiliate thereof";

(d) Section 303(a)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(a)(1)) is amended by inserting following the word "Corporation" the second time it appears the words "or any subsidiary or affiliate thereof";

(e) Section 303(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)) is amended by inserting following the word "Corporation" each time it appears therein except the first time the words "or any subsidiary or affiliate thereof";

(f) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended by inserting the following new subparagraph:

"(11) 'Corporation' as used in this title means the Consolidated Rail Corporation and (as may be appropriate in the context) any subsidiary or affiliate thereof."

U.S. RAILWAY ASSOCIATION,
Washington, D.C., September 12, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Commerce Committee, U.S. Senate, Washington, D.C.

Hon. HARLEY O. STAGGERS,
Chairman, Interstate & Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMEN: I have the honor to transmit herewith a copy of the proposed legislative amendments developed by the United States Railway Association for the

purpose of implementing its Final System Plan, as adopted by the Association's Board of Directors and submitted to the Congress on July 26, 1975, together with a Section by Section Analysis. These proposals carry the concurrence of the Administration, with the single exception of the separate "Fossil Fuel Bank Bill". This remains as Working Draft #1 pending possible further comments from other interested Federal agencies.

The status of other related legislative proposals is set out in the attached transmittal letter from our General Counsel, Mr. Hillman, to your respective Staff Counsel.

Respectfully yours,

ARTHUR LEWIS.

By Mr. BUMPERS:

S. 2407. A bill to improve the administrative process by limiting the defense of sovereign immunity, and for other purposes. Referred to the Committee on the Judiciary.

Mr. BUMPERS. Mr. President, I am today introducing for appropriate reference S. 2407, a bill to improve the administrative process by limiting the defense of sovereign immunity, and for other purposes.

All of us are familiar with the traditional principle of law that the United States, as sovereign, cannot be sued without its consent. Congress has granted consent to suit in the case of certain torts—the Federal Tort Claims Act—and in the case of certain actions for money damages for breach of contract, normally brought in the Court of Claims—the Tucker Act. There are still significant kinds of suits, however, in which sovereign immunity is successfully asserted as a defense, either to the suit as a whole, or to the granting of certain equitable relief that may be necessary to do justice between the parties.

Mr. President, as an original matter I would have questioned the whole concept of sovereign immunity in a nation in which the people, not the government, are sovereign. Interestingly, our Constitution nowhere mentions the doctrine, with the exception of the 11th amendment, which relates only to the sovereign immunity of States, and not to that of the United States. The courts following English precedents based upon the divine right of kings, have engrafted the doctrine of sovereign immunity on our law, and it seems to be ingrained as a part of American jurisprudence, however inappropriate it may be to the democratic foundations of our Nation. Relief from the oppressive effects of the doctrine must apparently come from Congress, not from the courts.

The largest remaining area in which sovereign immunity is a defense to suits against the United States relates to specific relief. Such traditional remedies as specific performance, quieting title, and ejectment are often unavailable. When a plaintiff, for example, is unable to allege that the defendant Federal officer or employee is acting beyond his statutory or constitutional authority, the defense of sovereign immunity is often applied, even though the Federal official involved may be committing a tort or breaking a contract in the traditional common-law sense. Damages in tort or contract may be available because of statutes waiving the defense, but damages are sometimes not an adequate remedy. If, for example, a Federal official appropriates a citizens' property, sovereign immunity may be a bar to an order directing the return of the property, if the Federal official has acted within an area delegated to him by statute.

This doctrine is grossly unfair and ignores the basic truth that "courts of justice are established, not only to decide upon controverted rights of the citizens as against each other, but also upon rights in controversy between them and the government." *United States* v. *Lee*, 106 U.S. 196, 220 (1882).

The proposal I introduce today is not new. It has been before the Congress at least once in the past, and portions of it are now pending as title IV of H.R. 6995, which was introduced on May 14 and referred to the House Committee on the Jduiciary. In addition, the Federal Government in our times has become so complex that a citizen who feels himself wronged by it often does not know exactly whom to name as a party defendant. It should not be the responsibility of a citizen to thread his way through the labyrinth of bureaus, agencies, and officers, in order to determine the appropriate named defendant and successfully resist a technical motion to dismiss. The burden should instead be on the Government, which after all knows more about its own business, presumably, than a citizen does, to locate and name the appropriate agency, bureau, department, or person who should be the defendant in the particular case. I am therefore proposing, as part of this same bill, that whenever a citizen files suit against any instrumentality of the United States, he may name either the United States itself or the Attorney General as defendant. It would then be the responsibility of the Attorney General, who has at his command the considerable resources of the Department of Justice, and who will ultimately be responsible for defending the action anyway, to find out who the appropriate named defendant is and to report the identity of that agency or person to the court. In this way, the denial of justice through technical dismissals because of a plaintiff's unknowing naming of the wrong defendant will be eliminated.

It is interesting to note that Great Britain adopted a similar reform as long ago as 1947. The Crown Proceedings Act, 10 & 11 Geo. VI., c. 44, Sec. 17(3) (1947), provides that if a plaintiff "has any reasonable doubt whether any and if so which of those departments [that is, departments of the government] is appropriate" as a defendant, he may name the Attorney General, who must then locate the proper governmental defendant. This kind of reform, adopted over 25 years ago on the other side of the Atlantic would be an improvement in the administration of justice in this country, and I urge its adoption. No less an authority than Kenneth Culp Davis has argued that such an amendment would improve the administrative process in this country.

Mr. President, I ask unanimous consent that an excerpt from the 1970 supplement to Professor Davis' Administrative Law Treatise, pages 916–19, be printed in the RECORD. This excerpt explains in detail several of the provisions of the bill I offer today.

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

§ 27.00–8. THE PROPOSED STATUTE

Currently proposed by the American Bar Association and the Administrative Conference of the United States, acting in cooperation with each other, is an amendment of the Administrative Procedure Act, now S. 3568, the essence of which is abolition of sovereign immunity in suits in federal courts for specific relief. The proposal was adopted in October, 1969, by the Administrative Conference and by the Council of the Administrative Law Section of the Bar Association, and it was approved in principle by the House of Delegates of the Bar Association in February, 1970.

The proposal is to add provisions to §§ 702 and 703 of 5 U.S. C., the judicial review provisions of the Administrative Procedure Act. The provision to be added at the end of § 702 is as follows:

An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein denied on the ground that it is against the United States or that the United States is an indispensable party. The United States may be named as a defendant in any such action, and a judgment or decree may be entered against the United States. Nothing herein (1) affects other limitations on judicial review or the power or duty of the court to dismiss any action or deny relief on any other appropriate legal or equitable ground; or (2) confers authority to grant relief if any other statute that grants consent to suit expressly or impliedly forbids the relief which is sought.

The provision to be added after the first full sentence of § 703 is as follows:

If no special statutory review proceeding is applicable, the action for judicial review may be brought against the United States, the agency by its official title, or the appropriate officer.

The amendment's main purposes. The two main purposes of the proposed amendment are to allow the plaintiff in any suit for relief other than money to name the United States as defendant and to authorize the court to enter a judgment or decree against the United States irrespective of sovereign immunity.

The basic ideal. The amendment pushes toward the basic ideal which was stated by the Supreme Court in 1882: "Courts of justice are established, not only to decide upon controverted rights of the citizens as against each other, but also upon rights in controversy between them and the government."[51]

The broad perspective. Congress has already abolished about two-thirds of sovereign immunity, especially through the Court of Claims Act of 1855 and through the Federal tort Claims Act of Claims Act of 1855 and through the Federal Tort Claims Act a hundred years and in tort for more than twenty years has been wholly successful. No movement has developed to restore the chunks of sovereign immunity that have been abolished; instead, Congress has from time to time strengthened those abolitions. The largest remaining area of federal sovereign immunity relates to specific relief. The present proposal is designed primarily to reach that area.

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[51] United States v. Lee, 106 U.S. 196, 220, 1 S.Ct. 240, 261, 27 L.Ed 171 (1882).

Inadequacy of present law. The present federal law of sovereign immunity in suits for specific relief is inadequate in many ways, as the preceding discussion shows, including frequent denial of substantive justice to parties who should be entitled to relief against governmental encroachments on their legal rights, denial of procedural justice when officers who are protected by sovereign immunity make final determinations affecting private rights without providing the customary procedural safeguards, and gross inefficiency resulting from depriving the courts of authority to resolve controversies the courts are especially qualified to resolve.

Limitation of proposal to relief other than money. Although the proposal refrains from using the term "specific relief," its principal effect is to allow suits for specific relief. The first sentence of the proposal limits it to "relief other than money damages." Perhaps ninety per cent of the cases affected will be suits for injunction or declaratory judgment or for both, and perhaps most of the rest will be suits for relief in the nature of mandamus. But all other specific relief is covered, including specific performance, quieting title, ejectment, and habeas corpus.

Prohibitions of relief in statutes granting consent to suits. The last sentence of the proposed addition to § 702 provides: "Nothing herein . . . (2) confers authority to grant relief if any other statute that grants consent to suit expressly or impliedly forbids the relief which is sought." The purpose of this clause is to avoid making any change in the interpretation of other statutes granting consent to suits against the government, including the Court of Claims Act, the Tucker Act, and the Federal Tort Claims Act. If any statute such as these is interpreted to forbid a suit for specific performance, then that interpretation remains unchanged by the present proposal. The intent of Congress as expressed or implied in other statutes remains undisturbed.

Officers as defendants. Although the proposed amendment does not change the law concerning suits against the government in the guise of suits against officers, such suits are subject to many uncertainties, including a possible holding that an officer who has not been named is indispensable or that the suit is barred by sovereign immunity. Because suits against the United States pursuant to the proposed amendment will be free from such uncertainties, suits against officers may be expected to decline and perhaps virtually disappear as parties and their representatives learn the advantages of naming the United States as a defendant.

Applicability of proposed amendment. Because the amendment is to be added to 5 U.S.C. §§ 702 and 703 (provisions of the Administrative Procedure Act concerning judicial review) it will be applicable only when those provisions are applicable. This means that the exceptions stated in § 701(b)(1)(H) will apply (relating mostly to specified wartime subjects); more importantly, it means that the proposed amendment will not apply "to the extent that . . . statutes preclude judicial review . . . or . . . agency action is committed to agency discretion by law." The case law concerning the two categories of review precluded by statute and action "committed" to agency discretion is thus untouched by the proposed amendment.

Law other than sovereign immunity unchanged. Government defenses other than sovereign immunity remain unaffected by the proposed amendment. Indeed, all law other than the law of sovereign immunity is unchanged. A very large proportion of all cases that have been disposed of on the ground of sovereign immunity, perhaps as many as nine-tenths, might have been won by the government on some ground other than sovereign immunity, including the merits.

Because nothing is changed except the law of sovereign immunity, and because all other constitutional law, statutory law, and common law remains unchanged, the government may still win cases on such grounds as unreviewability, standing, ripeness, exhaustion, primary jurisdiction, or any other legal or equitable principle. Yet to the extent that the proposed amendment will remove the defense of sovereign immunity, a larger proportion of the cases brought will be decided on their merits.

More government by judges? The proposed amendment will not mean a larger proportion of government by judges or a smaller proportion of government by executives and administrators. Courts will still be limited to deciding issues appropriate for judicial determination, and they will still be limited by the limitations on scope of judicial review prescribed by the Administrative Procedure Act in 5 U.S.C. § 706. Clearly, the courts will continue to develop and apply their own law about what the Supreme Court calls "the appropriateness of the issues for judicial determination." Gardner v. Toilet Goods Ass'n, 387 U.S. 167, 170, 87 S.Ct. 1526, 1528, 18 L.Ed. 2d 704 (1967). The lines between issues which are or are not appropriate for judicial determination will not be affected by the proposed amendment. To the extent that some issues may come to court that have heretofore been barred by sovereign immunity, the usual principles as to what issues are appropriate for judicial determination will apply. And the established limitations on scope of review will be fully applicable. The courts will thus have no authority to remake administrative policy or to exercise the discretionary power that statutes have conferred upon administrators. Courts will continue to be normally limited to such strictly legal questions as constitutionality, statutory jurisdiction, proper administrative procedure, substantiality of evidence, abuse of administrative discretion, and conformity to law. The proposed amendment will mean only that when a party who is hurt by governmental action seeks relief other than money, sovereign immunity will not be a bar to judicial determination of such strictly legal questions.

By Mr. BUMPERS:

S. 2408. A bill to improve the administrative process by making Federal agencies more responsive to the will of the people as expressed by their elected representatives in Congress. Referred to the Committee on the Judiciary.

Mr. BUMPERS. Mr. President, I am today introducing for appropriate reference S. 2408, a bill to improve the administrative process by making Federal agencies more responsive to the will of the people's elected representatives in Congress.

As this country approaches its 200th anniversary, our citizens seem more and more divided about some basic questions of national policy. A consensus is emerging, however, on a few such questions, and one of them is the extent of regulation by agencies and bureaus of the Federal Government. Both great political parties and officeholders and citizens of all persuasions seem to be approaching a broad agreement that the initiative and enterprise of the American people, long considered hallmarks of our national character, are being stifled by a mass of well-meaning but often misdirected regulation.

One need only glance at the Federal Register each day to appreciate the sheer volume of new and proposed rules, interpretations, and regulations that pour forth each day from the Federal establishment. My intention is in no way to denigrate the efforts of those thousands of dedicated employees who diligently approach their tasks each day and do their best within the framework laid down for them. The fault lies not with any individual employee, nor even with any individual agency or department of the Government, but rather with the system itself, under which Congress, vested by article I of the Constitution with exclusive legislation power, has in practice delegated much of this power to unelected officials of the Federal Government.

In theory delegation of legislative power is unconstitutional, and there are opinions of the Supreme Court that say so. In practice, every lawyer, every businessman, every citizen knows that Congress is daily divesting itself of its power by creating more and more agencies and bureaus and giving them the discretion to issue what are called rules or regulations, but what are really laws. At bottom, that is the reason for the calls from the President and others for deregulation, proposals which, for the most part, I applaud. The people of this country are entitled to be governed by laws considered and enacted by their elected representatives, rather than by confusing and sometimes duplicative regulations issued by Federal agencies who sometimes seem responsive to no one.

Many suggestions have been made as to how to cope with this problem. A great deal of these have merit, and I would not pretend to have the entire answer. The bill which I introduce today, however, seeks to approach the problem in a fundamental manner, by altering the disposition of power among Federal agencies, Congress, and the courts in such a way as to restore the disturbed balance.

Traditionally our Government has been thought of as composed of three equal branches, legislative, executive, and judicial. In practice, during the last 40 or 50 years much of the power customarily exercised by these three original branches has been taken over by what in truth amounts to a fourth branch of Government, the administrative branch, a branch that is not elected by anyone and, unlike the judiciary, is not insulated from political influence. A good bit of this shift in power was made necessary by the demands of modern industrial society, and no one, I trust, would want to turn back the clock to the 1930's. The great reforms instituted during that period, including the creation of the Securities and Exchange Commission, the National Labor Relations Board, and other important agencies, must not be jeopardized by an unthinking assault on administrative law and practice as such. On the other hand, the growth of the administrative branch has, I venture to say, far exceeded the expectations of any of those who advocated the reforms of the New Deal, and I believe that they would be the first to agree that a fundamental reexamination of this growth is now in order.

It was, after all, Franklin D. Roosevelt himself who wrote:

The practice of creating independent regulatory commissions, who perform administrative work in addition to judicial work, threatens to develop a "fourth branch" of the Government for which there is no sanction in the Constitution. *See* Davis, *Administrative Law Treatise* Section 1.04 at p. 28 (1958).

In the beginning, it was understandable that Congress, in creating Federal regulatory agencies, should wish to insulate them, at least in part, from strict judicial review. It was believed, and with some justice, that the Federal judiciary was hostile to the social legislation that this country found necessary to pull us out of the Depression and makes us ready for the modern industrial world. Accordingly, a number of doctrines of administrative law were developed that in practice have conferred upon Federal agencies a large amount of unreviewable power. The Administrative Procedure Act, for example, limits fairly strictly the grounds on which a court may set aside agency actions, findings, or conclusions, 5 United States Code, section 706. Findings of fact are not to be set aside if they are supported by substantial evidence on the record as a whole, and orders or conclusions of agencies are commonly left standing except in those extraordinary instances where they have gone so far afield as to be fairly characterized as arbitrary, capricious, or an abuse of discretion, 5 United States Code, section 706 (2)(A).

In addition, although the Administrative Procedure Act provides that "the reviewing court shall decide all relevant questions of law" and "interpret constitutional and statutory provisions," 5 United States Code, Section 706, the practice in the courts of law is otherwise. Quite frequently a reviewing court will defer to the so-called "expertise" of an agency even on an issue of law. The holding of an agency itself that it is acting within the authority delegated to it by Congress becomes well-nigh conclusive. Thus, for reasons that were no doubt weighty at one time, the courts have abdicated a large measure of their traditional power to interpret and apply the laws of Congress.

As Prof. Louis Jaffe has remarked:

. . . the practice of the Supreme Court, for example, shows the Court sometimes asserting the correctness of the agency rule, at other times going no further than to hold that the administrator can but is not required to adopt such a rule. It is this latter practice which has given rise to profound difficulties of description and analysis, and to intense controversy. It has seemed to some that a court which thus leaves to an administrator the power to bind and to loose is abandoning the prime function of a court of law (footnotes omitted). Jaffe, *Judicial Control of Administrative Action* 557–58 (1966).

Or, as another leading authority on administrative law has put it:

The Supreme Court has consistently held that judicial judgment should not be substituted for administrative judgment on questions within the agency's statutory power of rule making. Davis, *Administrative Law Treatise* Section 30.10, at p. 247.

And this is true even in those instances where it is asserted by an affected citizen that the agency's rulemaking has exceeded the power delegated to it by Congress. The courts, it seems, have forgotten that Congress is the creator, and the agency the creature, of legislation. No person should be judge in his own cause, and neither should any agency determine the limits of its own power.

Perhaps the leading case stating this accepted doctrine is *NLRB* v. *Hearst Publications, Inc.*, 322 U.S. 111 (1944). The question there was the definition of the term "employee" in the National Labor Relations Act. The agency had held that certain newsboys were employees rather than independent contractors. The Supreme Court, in reviewing this determination, did not itself construe the words of the statute. Instead, it simply accepted the statutory interpretation of the Labor Board on the ground that it had "warrant in the record" and "a reasonable basis in law," 322 United States at 131.

It is worth saying at this point that I have no quarrel with the particular interpretation of the word "employee" involved in Hearst. Undoubtedly the Labor Board's interpretation of the statute in that instance was correct, and the Supreme Court properly approved it. The point for present purposes is simply that the Board in effect determined the limits of its own authority, even though in theory it has only so much power as has been delegated to it by Congress. To quote Professor Jaffee again:

In administration most law is agency-made and much of it which is reviewed by a court will be approved as "reasonable" or "supported by evidence," without the court itself pronouncing the law. Judicial Control of Administrative Action 563.

A good deal of this looseness in judicial review can be accounted for by the fashionableness in legal circles of one word: discretion. Agencies, it is said, have been delegated the power by Congress to work out the details of public policy, and their judgment should not be disturbed so long as it is within their "discretion," or so long as their discretion is not "abused." Although this doctrine in its beginnings was healthy, designed to prevent unnecessary judicial interference with social policies adopted by the Congress, it has long since exceeded proper boundaries. As Mr. Justice Douglas has said in dissent:

Law has reached its finest moments when it has freed man from the unlimited discretion of some ruler, some civil or military official, some bureaucrat. Where discretion is absolute, man has always suffered. At times it has been his property that has been invaded; at times, his freedom of thought; at times, his life. Absolute discretion is a ruthless master. It is more destructive of freedom than any of man's other inventions. *United States* v. *Wunderlich*, 324 U.S. 98, 101 (1951).

Similar judicial formulations have insured that almost every rule or regulation adopted by a Federal agency is upheld in the courts. There is a presumption, it is said, that such rules or regulations are within the authority granted by Congress, or by Executive order, to the particular agency involved. It is my view, simply put, that there should be no such presumption, and that administrative law has come to the point where the traditional doctrine should be reversed. The burden should be upon the Federal agency, which has at its command the resources of the sovereign, to establish the validity of its own action, instead of being placed upon the citizen to prove the reverse.

The bill I introduce today would do just that. First of all, it would restore the courts to their normal law-interpreting and law-applying role in our system of Government. It would insert the words "de novo" in the first sentence of 5 United States Code, section 706, the sentence that concerns decision by the courts of questions of law in actions to review Federal agencies. Courts could still defer to administrative "expertise," if there is in fact such a thing, when deciding issues of fact, and the traditional "substantial evidence" rule applied to such issues would be undisturbed.

In the realm of law, however, the supremacy of the courts, who are sworn to apply and uphold the statutes of Congress, would be restored. A decision by an agency on an issue of law would no longer be upheld simply upon a finding that there is "warrant in the record" for it. The court would actually use its own judgment on such issues.

Furthermore, the presumption in favor of the validity of agency rules and regulations would be eliminated, and the burden of establishing this validity would be shifted to the agency, a party better able to bear it. Only if a court were clearly and convincingly persuaded, for example, that a given rule or regulation was within the power delegated by Congress, would the rule or regulation be upheld.

In this way, Congress would be confirmed as the true and only source of legislative power in our society. Agency rules and regulations clearly within the congressional mandate would remain intact. Finally, a proviso in the bill would make clear that the traditional heavy burden of proof borne by the prosecution in criminal cases and, to a lesser extent, by the United States when seeking to enforce a civil penalty, would not be altered. In these instances, if a defendant asserted an agency rule or regulation in bar of a prosecution or action for civil penalties, the opposing party, usually the United States, would still have to sustain the burden of proof usually associated with these kinds of enforcement proceedings.

It may be objected that this proposal will intrude the courts into policy areas where they have no business. Courts have made policy, of course, ever since the common law was conceived, but in a society increasingly governed by specific statutory pronouncements enacted by an elected legislature—to say nothing of a written Constitution—it must be conceded that the courts' law-making power is largely interstitial. As statutes become more numerous and more detailed each year, the function of the courts becomes, or should become, rather to enforce the policies of the Congress, than to create and enforce policies of their own. To hold that agency decisions in conflict with a policy of Congress should be overturned by the courts, however, is to aid the legislative process, not to hinder it,

for legislation can never be specific enough to insure that in every instance the specific will of the legislators is carried out. A statute, once enacted, escapes the control of its writers, as it were and becomes a living thing, with a life and growth of its own. Those chosen by the Congress to execute the statute may or may not do so faithfully. Political processes are not always sufficient to compel them to follow the spirit of the law. When they transgress it, a power of correction should reside somewhere and, under our system, that place is the courts.

Administrative agencies, after all, are no more law-making bodies than our courts. They are the creatures of Congress, possessing only those powers given them by legislation. It is not enough, for example, for an administrative official to argue that no law prohibits his action, and that, therefore, the courts should not intervene.

As one court has properly observed:

> This argument misses the point. The Secretary of Transportation is not so omnipotent that he must be presumed to possess the power to act as he chooses unless there is some law prohibiting him from so acting. He possesses only the power which Congress has given him, and the scope of that power is defined by Congress. *Named Individual Members of the San Antonia Conservation Society* v. *Texas Highway Department*, 446 F.2d 1013, 1023 n.18 (5th Cir. 1971).

Nor is it any answer to say that an administrative official who does not carry out the will of Congress may be corrected by Congress itself. The answer is true in theory: Congress could conceivably superintend each application of its laws and individually correct those applications with which it disagrees. But in practice such a function goes beyond lawmaking and transgresses upon the field of law interpreting that is a traditionally judicial preserve. Congress has neither the time nor the inclination to correct individual errors of law application. That function is traditionally for the courts, and I doubt that Congress would wish to assume it. It is better left to those at least partially insulated from political pressures.

Mr. President, I do not pretend to believe that the courts will ever wholly succeed in enforcing the will of Congress precisely as we would wish, in overruling those exercises of administrative power that truly go beyond the legislative mandate, and upholding those applications of statute that, while not perhaps to the judges' personal liking, are nevertheless within the range of choice left by Congress to the agency.

The courts, that is, cannot do everything. I am convinced, however, that they can do more than they have, if directed and encouraged by an amendment to the Administrative Procedure Act such as I am today proposing.

Judicial review, however imperfect, is at least a constant reminder to the administrative agencies that they are not all-powerful. Congress, after all, paints with a broad brush. That is the nature of our legislative process. It is for the courts to see that the broad policies commanded by Congress are not distorted in individual situations by the agents of Congress. The courts cannot write the tune, but at least they can see that those who are playing it maintain the key chosen by its composer. As Archibald MacLeish has argued, the courts is "the labor of order," *Apologia*, 85 *Harv. L.Rev.* 1505, 1508 (1972), to reduce the confusion, sometimes the chaos of the administrative process to order, so that that process will make sense for the individual citizen.

Mr. President, it is my hope that the bill I introduce today will be a step toward restoring order to the administrative process and, even more important, toward restoring our citizens' confidence in their own Government.

By Mr. BENTSEN (for himself and Mr. NELSON):

S. 2409. A bill to require committee reports on proposed legislation to contain statements of the reporting and recordkeeping requirements which will be imposed on private business as a result of the enactment of such proposed legislation. Referred to the Committee on Government Operations.

FEDERAL PAPERWORK REDUCTION ACT

Mr. BENTSEN. Mr. President, I am today introducing legislation with Senator NELSON to require all congressional committees to include in their legislative reports an estimate of the forms and recordkeeping requirements anticipated by the enactment of new legislative proposals. This legislation will insure that Congress gives much closer attention to the paperwork requirements that will be imposed on small businessmen by the enactment of new laws. This bill is similar to legislation introduced in the past by my distinguished colleague from New Hampshire, Senator MCINTYRE, who chaired comprehensive congressional hearings on the impact of the Federal paperwork burden on small business.

Under this proposal, the congressional committee report accompanying each bill will be required to contain a statement estimating:

The number of reports which would be required to be made, and records which would be required to be kept, by private business, and specifically by small business enterprises, as a result of the enactment of the bill;

The complexity of the forms which would be required in making these reports and keeping these records; and

The cost and time which would be required in making these reports and keeping these records.

In terms of dollars and cents, or frustration and irritation, the endless tangle of paperwork imposed by Government has become unbearable. With well over 5,000 forms in use in the Federal Government, excluding all tax and banking forms, the private citizen is inundated with requests for information. Some have referred to the endless series of forms and documents as "strangulation in triplicate." Others have referred to this as "Federal forms pollution." The Federal bureaucracy generates more than 2 billion pieces of paper annually. That is probably enough to fill several baseball stadiums.

There are 10 forms to be filled out each year for every man, woman, and child in the United States. It is estimated that small business spends well in excess of $18 billion annually on Government paperwork. It is particularly difficult for small firms to absorb the cost of this paperwork. Small businessmen must employ outside accountants and lawyers to fill out complex forms and keep the extra recordkeeping involved. Professional assistance, of course, is expensive. Having few employees, the small firms find it more difficult to spread the cost. A rise in per unit cost to cover paperwork can result in loss of sales and loss of competitive standing for small enterprises.

We have to cut the tangle of redtape. We have to hold back the growing number of Government forms. Enactment of this proposal will help achieve this goal.

By Mr. HATHAWAY (for himself and Mr. BROOKE):

S. 2410. A bill to amend section 501(c)(5) of the Internal Revenue Code of 1954. Referred to the Committee on Finance.

Mr. HATHAWAY. Mr. President, I am introducing a legislative proposal today which would clear the books of a legislative oversight and give our fishing organizations equal footing with our agricultural labor, medical and other tax exempt organizations. To do this, the proposal would simply include the harvesting of marine resources within a definition of agriculture. This would extend the benefits of having a tax-exempt organization to the Nation's fishermen. These include, but are not limited to, lobstermen, oystermen, clammers, fishermen, shrimpers, and all others who reap the harvest of the sea.

Labor and farm organizations were recognized long ago by the Congress and the Federal Government as institutions which provided a service to their constituents—a service that benefited society as a whole. Federal law offers these organizations tax-exempt status to enable them to provide information and counseling services, as well as publicize events which have particular meaning to those organizations.

As our efforts to increase the world's food supply grow, so then should our commitment to those who harvest those foods. The unity of those who labor on the high seas increases the potential benefit that comes from a coordinated effort to reap the harvest and at the same time prevent depletion of this resource. Providing a tax-exempt status for industry-wide organizations will strengthen that unity.

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

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

S. 2410

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

501 of the Internal Revenue Code of 1954 (relating to exemption from tax on corporations, etc.) is amended by redesignating subsection (g) as (h) and by inserting after subsection (f) the following new subsection:

"(g) DEFINITION OF AGRICULTURAL.—For purposes of subsection (c)(5), the term 'agricultural' includes, but is not necessarily limited to, the art or science of cultivating land, harvesting crops or marine resources, or raising livestock.".

SEC. 2. Effective Date.—The amendment made by this Act shall be in effect for all taxable years beginning after January 1, 1974.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 5

At the request of Mr. CHILES, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of the bill (S. 5) the Federal Government in the Sunshine Act.

S. 27

At the request of Mr. Moss, the Senator from California (Mr. TUNNEY) was added as a cosponsor of the bill (S. 27) to establish a Department of Natural Resources and Environment.

S. 123

At the request of Mr. INOUYE, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of the bill (S. 123) to amend title XVIII of the Social Security Act to provide for the coverage of certain clinical psychologists' services under the supplementary medical insurance benefits program established by part B of such title.

S. 454

At the request of Mr. CHILES, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of the bill (S. 454) to amend the Occupational Safety and Health Act of 1970.

S. 1259

At the request of Mr. HATHAWAY, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of the bill (S. 1259) the Small Business Emergency Relief Act.

S. 1875

At the request of Mr. BEALL, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of the bill (S. 1875) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to add a requirement that the comprehensive State plan include provisions for the prevention of crimes against the elderly.

S. 2258

At the request of Mr. BROCK, the Senator from Maine (Mr. MUSKIE) was added as a consponsor of the bill (S. 2258) to establish a method whereby the Congress may assure a more effective use of tax dollars.

S. 2290

At the request of Mr. TAFT, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of the bill (S. 2290) to establish a Consumer Protection Study Commission in order to study the desirability and feasibility of establishing various administrative courts and transferring to such courts the adjudicatory, licensing, and rulemaking functions of various regulatory agencies, and for other purposes.

S. 2312

At the request of Mr. BURDICK, the Senator from Montana (Mr. MANSFIELD), the Senator from North Dakota (Mr. YOUNG), the Senator from Washington (Mr. JACKSON), the Senator from Vermont (Mr. STAFFORD), and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of the bill (S. 2312) to amend the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States and Canada or the United States and Mexico at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees.

S. 2344

At the request of Mr. BENTSEN, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of the bill (S. 2344) the Pension Paperwork Reduction Act.

S. 2350

At the request of Mr. SYMINGTON, the Senator from Minnesota (Mr. MONDALE), the Senator from Indiana (Mr. BAYH), the Senator from Kentucky (Mr. FORD), the Senator from Iowa (Mr. CULVER), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Louisiana (Mr. LONG) were added as cosponsors of the bill (S. 2350) to amend the National Security Act of 1947, as amended, to provide that the Secretary of the Treasury become a statutory member of the National Security Council.

S. 2386

At the request of Mr. TAFT, the Senator from Florida (Mr. STONE) was added as a cosponsor of the bill (S. 2386) to deny Members of Congress any increase in pay under any law passed, or plan or recommendation received, during a Congress unless such increase is to take effect not earlier than the first day of the next Congress.

S. RES. 144

At the request of Mr. BURDICK, the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. METCALF), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of the resolution (S. Res. 144) to urge the restoration of the status of amateur athlete for the late Jim Thorpe, and for other purposes.

S. RES. 228

At the request of Mr. BROCK, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of the resolution (S. Res. 228) to establish a temporary procedure for insuring coordinated Senate action on legislative proposals on energy.

S. RES. 245

At the request of Mr. HASKELL, the Senator from South Dakota (Mr. ABOUREZK) and the Senator from California (Mr. CRANSTON) were added as cosponsors of the resolution (S. Res. 245) to express the sense of the Senate that the President should make public immediately all agreements and understandings entered into and all commitments made by the United States with respect to Israel and Egypt.

S. RES. 253

At the request of Mr. DOMENICI, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of the resolution (S. Res. 253) relating to the conservation of helium.

S.J. RES. 119

At the request of Mr. ROTH, the Senator from Delaware (Mr. BIDEN), the Senator from Texas (Mr. TOWER), the Senator from Nevada (Mr. LAXALT) were added as cosponsors of the joint resolution (S. J. Res. 119) to establish a National Commission on School Busing.

S.J. RES. 125

At the request of Mr. KENNEDY, the Senator from New Jersey (Mr. CASE), the Senator from Hawaii (Mr. FONG), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. MONDALE), and the Senator from Florida (Mr. STONE) were added as cosponsors of the joint resolution (S.J. Res. 125) authorizing and requesting the President to issue a proclamation designating Sunday, September 14, 1975, as "National Saint Elizabeth Seton Day."

S. CON. RES. 60

At the request of Mr. ROTH, the Senator from Delaware (Mr. BIDEN), the Senator from Texas (Mr. TOWER), the Senator from Nevada (Mr. LAXALT) were added as cosponsors of the concurrent resolution (S. Con. Res. 60) to express the sense of Congress that compulsory school busing be discontinued until such time as an adequate study of the effects of such busing and alternatives to it is completed.

MOTION SUBMITTED FOR PRINTING

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1976—H.R. 8069

MOTION

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

Mr. ALLEN submitted the following motion intended to be proposed by him in connection with H.R. 8069, making appropriations for the Departments of Labor, and Health, Education, and Welfare and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes:

Motion that H.R. 8069 be recommitted to the Appropriations Committee with instructions to report said bill to the Senate not later than 10 a.m., Thursday, September 25, 1975, with the total amount proposed to be appropriated by said bill reduced by the total sum of $1,000,000,000, with the committee to exercise the discretion as to what appropriations shall be reduced and by what amount so as to accomplish said $1,000,000,000 reduction.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1976—H.R. 8069

AMENDMENT NO. 921

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

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (H.R. 8069) making appropriations for the Departments of Labor, and Health, Education, and Welfare and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

AMENDMENT NO. 922

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

Mr. HUGH SCOTT submitted an amendment intended to be proposed by him to the bill (H.R. 8069), supra.

AMENDMENTS NOS. 923 AND 924

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

Mr. BROOKE submitted two amendments intended to be proposed by him to the bill (H.R. 8069), supra.

AMENDMENTS NOS. 925 AND 926

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

Mr. JAVITS submitted two amendments intended to be proposed by him to the bill (H.R. 8069), supra.

FINANCIAL INSTITUTIONS ACT OF 1975—S. 1267

AMENDMENT NO. 927

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

Mr. PROXMIRE (for himself, Mr. MCINTYRE, and Mr. TOWER) (by request) submitted an amendment to be proposed by them, jointly, to the bill (S. 1267) to expand competition, provide improved consumer services, strengthen the ability of financial institutions to adjust to changing economic conditions, and improve the flows of funds for mortgage credit.

Mr. PROXMIRE. Mr. President, today I am submitting, on behalf of the Federal Home Loan Bank Board, an amendment to S. 1267, the Financial Institutions Act of 1975. The Board has asked that this amendment, which comprises the Board's proposed revision of section 5(c) of the Home Owners' Loan Act of 1933, be introduced for consideration as a substitute to the amendment to section 5(c) contained in S. 1267.

The Board's proposed amendment to 5(c) would achieve all of the objectives embodied in the Financial Institutions Act, but would do so by revising existing 5(c) to eliminate the cumbersome and henceforth obsolete limitations in that section, not by adding to it.

Mr. President, I assure you that the Senate Banking Committee will give full consideration to this amendment during its forthcoming markup of S. 1267 and report its recommendations to the full Senate as soon as possible. I ask unanimous consent that the text of the amendment and the Board's descriptive letter of transmittal dated September 24, 1975, be printed in the RECORD.

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

AMENDMENT NO. 927

On page 21, beginning at line 17, through page 24 ending at line 13, strike all of subsections 301(a) and (b) and insert in lieu thereof the following subsections 301(a) through (d) and reletter subsections 301(c), (d), and (e) at lines 14, 19 and 25 respectively on page 24 as 301 (e), (f), and (g):

SEC. 301(a). Subsection (c) of section 5 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. § 1464(c)), with the exception of the fifteenth paragraph thereof, is amended to read as follows:

"(c)(1) In implementing the provisions of this subsection, the Board shall cause such associations to be primarily housing lenders. An association may, to such extent, and subject to such rules, regulations, definitions, and orders, as the Board may prescribe from time to time, invest in, sell, service, or otherwise deal with, the following loans and other investments. As used in this subsection, the term 'loans' includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

"(A) loans secured by or made with respect to or for the acquisition, development, construction, improvement, repair, equipping, or alteration of real property which comprises or includes or is to comprise or include one or more homes or other dwelling units (including condominiums, cooperatives, and mobile homes):

"(B) loans to, or other securities or instruments issued by, or having the benefit of any insurance, guaranty, or assistance of, any one or more of the following:

"(i) the United States, a State or political subdivision of a State, including any department or agency of any one or more of the foregoing;

"(ii) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, or any other instrumentality of the United States, a State or political subdivision of a State, created to further any housing program;

"(iii) the National Housing Partnership Corporation and any partnership, limited partnership, or joint venture formed pursuant to sections 907(a) or 907(c) of the Housing and Urban Development Act of 1968, as heretofore or hereafter in effect; and

"(iv) the President of the United States, as authorized under sections 221, 222, or 224 of the Foreign Assistance Act of 1961, as now or hereafter in effect:

"(C) deposits in, other loans to, and bankers' acceptance of, any financial institution the accounts of which are insured by an agency of the United States;

"(D) loans or other investments secured by any type of loan or other investment authorized under the preceding subparagraphs (A) through (C);

"(E) loans secured by accounts in the association;

"(F) real property a substantial portion of which is used or will be used as a home office or other office facility of the association (or securities of a corporation substantially all of whose activities consist of the ownership or operation of such real property); and

"(G) the following additional loans and other investments, but no association may make an investment under this subparagraph (G) if its aggregate outstanding investments under this subparagraph (G) would thereupon exceed 30 per centum of its total investments under this paragraph (c)(1):

"(i) loans for the payment of expenses of college, university, vocational school, or other education;

"(ii) consumer loans;

"(iii) loans secured by or made with respect to other real property;

"(iv) to the extent not referred to in the preceding subparagraph (B), loans to, or other securities or instruments issued by, or having the benefit of any insurance, guaranty, or assistance of, the Student Loan Marketing Association, any other instrumentality of the United States, or any instrumentality of a State or political subdivision of a State;

"(v) loans or other investments for purposes related to community conservation, development, or improvement;

"(vi) loans or other investments secured by loans or other investments authorized under the preceding provisions of this subparagraph (G);

"(vii) loans to, or other securities or instruments issued by, any corporation incorporated under the laws of any State or of the United States, substantially all the activities of which are reasonably related to the activities of associations, but no association may make an investment under this subdivision (vii) if aggregate outstanding investments under this subdivision (vii) would thereupon exceed the greater of one per centum of its assets or 25 per centum of its net worth; and

"(viii) commercial paper and other corporate debt securities.

"(H) Any institution which has converted to a Federal association pursuant to subsection (i) of this section 5 may, to the extent permitted by the Board and subject to such terms and conditions as may be imposed by the Board:

"(i) make investments of a type permitted under subparagraph (G) of this paragraph (c)(1) without regard to the 30 per centum of assets limitation contained in said subparagraph (G) for a period not to exceed five years from the effective date of such conversion;

"(ii) retain, but not increase, investments which were lawful immediately prior to the effective date of such conversion where such investments are not authorized under this paragraph (c)(1) and are not included as an authorized investment for the converted association pursuant to subsection (a) of this section 5; and

"(iii) in the case of a mutual savings bank converting to a Federal association, continue and retain those investments included within subsection (a) of this section 5 to the extent permitted by said subsection, except that the Board may include any of such investments which are of a type authorized by subparagraph (G) of this paragraph (c)(1) within the 30 per centum of assets limitation contained in said subparagraph.

"(2) To such extent, and subject to such rules, regulations, definitions, and orders, as the Board may prescribe from time to time, an association may be and act as executor, administrator, custodian, testamentary trustee, or trustee of a living trust, or in any other fiduciary capacity, for any estate, trust, or assets owned by, or created, existing, or organized for the benefit of any individual or individuals, or as custodian or trustee of any individual or self-employment retirement account or plan, and all funds held in any such capacity by any such association may be commingled for appropriate investment. An association may also act as cus-

todian or trustee with respect to any securities issued or guaranteed by any financial institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or issued or guaranteed by an affiliate of one or more of such institutions. An arrangement which would otherwise be a trust having an association as trustee shall, for the purposes of this paragraph (2), the Internal Revenue Code of 1954, or any other provisions of law now or hereafter in effect, be considered to be a trust having an association as trustee without regard to the fact that all or part of such arrangement consists or has consisted of one or more deposits. One or more associations may establish, maintain, or invest in common funds. An association shall not, by reason of any service, activity, or business authorized by this paragraph, be considered not to be entitled to any exemption or favorable treatment, under any tax statute or other statute, it would have or receive in the absence of such service, activity, or business."

(b). Section 2 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. § 1462), is amended by adding at the end thereof the following new subsections:

"(e) The terms 'real property' and 'real estate' include leaseholds.

"(f) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and any territory or possession (including any trust territory) of the United States. The provisions of this Act shall apply to any State as herein defined".

(c). Section 7 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. § 1466), is repealed.

(d). The fifteenth paragraph of subsection (c) of Section 5 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. § 1464 (c)), is designated paragraph (c)(3).

FEDERAL HOME LOAN BANK BOARD,
Washington, D.C., September 24, 1975.

Hon. NELSON A. ROCKEFELLER,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I transmit herewith on behalf of the Federal Home Loan Bank Board a draft of proposed amendments to S. 1267, the "Financial Institutions Act of 1975", for the purpose of amending proposed amendments to Section 5(c) of the Home Owners' Loan Act of 1933, as amended. The draft proposed amendments would strike the proposed amendment to Section 5(c) appearing in S. 1267 and substitute therefor a revised Section 5(c) for the purposes outlined below.

S. 1267 would leave intact the complex and cumbersome provisions of existing Section 5(c) of the Home Owner's Loan Act but would substantially expand the lending authority permitted Federal savings and loan associations under that section. It is the purpose of the proposed amendments to S. 1267, transmitted herewith, to simplify existing 5(c) while accomplishing this objective. There are several specific areas treated by the Board's revision which I would like to bring to your attention.

1. *Real Estate Loans.* The Board's revision would specifically divide real estate loans into two categories: the first relates to residential real estate loans, which would be placed in subparagraph (A), and would be without limitation; the second are other real estate loans, which would be placed in subparagraph (G)(iii) and be subject to a 30% limitation discussed below. You will observe, that the Board's revision of Section 5(c) would make a basic division between investments which may be unlimited in amount contained in subparagraphs (A) through (F) and investments which may be no greater than 30% of the total investments permitted Federal associations under paragraph (c)(1), found in subparagraph (G).

2. *Consumer Loans.* This power would be granted in section (1)(G)(ii) of the Board's proposed revised 5(c). You will notice that all categories of investment in subparagraph (G) are subject to the limitation that aggregate outstanding investments under that subparagraph may not exceed 30 per centum of the total permissible investments under paragraph (c)(1).

3. *Construction Loans.* Construction loans would be permitted under subparagraph (A) in connection with residential real estate loans. Construction loans would also be permissible investments under such categories as subparagraph (G)(v) relating to community conservation, development or improvement. Present 5(c) limits construction loans by location and, in amount, as a function of assets or of surplus, reserves and undivided profits.

4. *Community Welfare and Development Loans.* As discussed above, loans of this type would be permitted under subparagraph (G)(v), subject to the 30% limitation. The revision builds upon and expands the existing powers to invest for such purposes found in present section 5(c) in the authority to invest in State housing corporations and urban renewal areas.

5. *Commercial Paper and Corporate Debt Securities.* These investments would be permitted under subparagraph (G)(viii) subject to the 30% limitation.

6. *Federal, State, and Municipal Securities.* Under the Board's revision, investments of this type would be permitted under subparagraph (B)(i). Investments would also be permitted under subparagraph (G)(iv) where these investments were not backed by the United States, a State or political subdivision of a State, including any department or agency of the foregoing. Present Section 5(c) generally authorizes such investments.

7. *Deposits in Insured Institutions and Investments in Certain Securities.* Under the Board's revision, deposits in insured institutions would be permitted under subparagraph (1)(C). Investments could also be made in bankers' acceptances of institutions insured by an agency of the United States. This provision would clarify existing authority.

8. *Liquidity Investments.* The Board's revision of Section 5(c) would make provision for investments necessary for liquidity purposes under Section 5A of the Federal Home Loan Bank Act under subparagraphs (1)(B)(i) and (1)(C). It is intended, with respect also to paragraph (1)(C), that investments in Federal funds would be permitted.

9. *Service Corporation Investments.* The proposed amendments would permit investment in service corporations where the investment would not thereupon exceed the greater of 1 per centum of the assets of the association or 25 per centum of its net worth. This is a change from present Section 5(c) which uses only a 1 per centum of assets test.

10. *Trust and Other Fiduciary Powers.* A new paragraph (c)(2) would be added authorizing Federal associations to act in trustee and other fiduciary capacities. Present Section 5(c) generally limits Federal associations to acting as trustee or custodian only for investments in savings accounts in connection with individual or self-employment retirement accounts or plans.

On behalf of the Federal Home Loan Bank Board, I respectfully ask you to lay the proposed amendments to S. 1267 before the Senate. An identical bill is being transmitted to the Speaker of the House of Representatives.

Sincerely yours,

CHARLES E. ALLEN,
General Counsel.

CRIMINAL JUSTICE REFORM ACT OF 1975—S. 1

AMENDMENTS NOS. 928 THROUGH 933

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

Mr. MOSS submitted six amendments intended to be proposed by him to the bill (S. 1) to codify, revise, and reform title 16 of the United States Code; to make appropriate amendments to the Federal Rules of Criminal Procedure; to make conforming amendments to criminal provisions of other titles of the United States Code; and for other purposes.

Mr. MOSS. Mr. President, on August 1, I introduced several amendments to Senate bill 1, the Criminal Justice Reform Act of 1975, a bill which I cosponsored earlier this year. All of those amendments were intended to make chapter 11 of the bill reflect more accurately the many years of congressional and judicial action regarding the prosecution of offenders, who by their acts do damage or injury to the security of this Nation or its allies.

Mr. President, when I originally cosponsored S. 1, I realized at that time there were certain deficiencies in the bill and I announced that my cosponsorship would include amendments to better bring the bill in line with the requirements of the Constitution and justice. In that regard, I am introducing today additional amendments to chapters 5 and 10 of Senate bill 1.

As a cosponsor of this measure, I feel an obligation to participate very actively in the legislative considerations of the Criminal Justice Reform Act of 1975, and I intend to pursue that obligation very actively. I urge the Judiciary Committee to review these amendments very carefully.

The first amendment will amend section 511—Time Limitations.

The current time limitations for institution of criminal prosecutions are set forth at 18 U.S.C. sections 3281, capital offenses, and 3282, offenses not capital. Any indictment or information must be found or instituted within 5 years following the commission of the offense or prosecution is barred. S. 1 makes these same provisions. But the time has come to recognize that the statute of limitations should be applied to take cognizance of the offense committed. Since offenses are graded, it would seem propitious to also grade the applicable limitations. S. 1 already does this in a limited way by separating infractions and making the applicable period 1 year.

The amendment would leave the limitation for felonies at 5 years, and reduce the statute of limitations for misdemeanors to 3 years. The philosophy behind a statute of limitations, to insure that indictments and informations will not be brought on State crimes, the prosecu-

tion of which most often is not the best utility of a court's time. With that in mind it is only reasonable that because a misdemeanor is not considered to be as offensive to society as a felony the limitation for prosecution of the crime should consider the seriousness of the offense and reduce the statute for a misdemeanor offense.

The next consideration in this amendment is the provision for continuing offenses. By inference, there is within the provisions for acts of conspiracy question of concealment which would be a natural objective of any conspiracy. This would make conspiracy an eternal crime because the conspirators are hiding the conspiracy of an uncommitted act forever. The courts are currently split on whether concealment is a separate objective of conspiracy, thereby increasing the duration of a conspiracy. Although by analogy—misprison of a felon, harboring a fugitive—active concealment is usually required for the offense to occur. S. 1 defines conduct as "any act, any omission, or any possession," and would thereby bring concealment within the time limitation extension provided for. Also, the dichotomy between active and passive is usually an artificial one, without any objective certainty. One will inevitably actively conceal one's crime. In addition, the requirement that the coconspirators agree to the concealment will offer no salvation. All conspirators agree, explicitly or implicitly, to conceal their offenses; the act of any one conspirator will bind the others if it is reasonably foreseeable. These requirements, of agreement and active concealment, have no objective validity.

All crimes have as an objective secrecy and concealment—no criminal desires to be caught and conspiracy is no exception. But to raise its status to a legal objective of a conspiracy, thereby continuing the offense, insures that conspiracy will have no statute of limitations and prosecutors can and will always prosecute for concealment of a conspiracy when the applicable statute of limitations for the crime have expired. If such is the intent of Congress then we should specifically state that conspiracy, like any capital offense, shall have no limitation on the institution of a prosecution.

Also, within this amendment is a change in the limitation for prosecution for failing to register. As currently drafted, the statute of limitation does not begin to run until the individual registers, thereby insuring that the offense will have no limitation. The individual would have to proclaim his crime, by registering late, in order for the statute to begin running. If an individual has a duty to register by a certain date, his crime consists in not registering on that day—once the crime has been committed the applicable period should start to run without each succeeding day of failing to register becoming an additional day of criminal behavior. The philosophy of a statute of limitations should require that the time starts to run when the crime is committed and if this is a known legal duty an enforcement effort should discover the offense within that time. There is no overriding State interest which gives reason to require the person to have the possibility of prosecution over his head in perpetuity.

This amendment next changes the time limit for reinstitution of prosecution. S. 1 follows current law in providing 6 months for reinstitution of prosecution if it was originally dismissed for a defect in the complaint itself. However, 6 months is too much time to be allowed for the reinstitution of a prosecution, even if a new grand jury need be called. If the Government is serious about instituting a prosecution after a dismissal and after the statute of limitations has run, it can and should do it within 60 days of the dismissal. This amendment also will cause greater efficiency in the administration of justice.

I must add that it is explicit within the amendment that such an extension of the applicable limitation period will only apply when there is a defect or error on the face of the complaint, indictment, or information, as the current law states. The word "insufficiency" connotes evidence, and any dismissal based upon evidence may not be reinstituted.

The final part of this amendment is to change the tolling of the statute of limitations. S. 1 as drafted parallels current law. There is no reason to toll the period based upon the absence of the defendant unless it impedes the investigation of the crime. An indictment may be found, or an information filed in the absence of the defendant, and that will solve the limitation problem. The time limitation only requires the institution of criminal proceeding within the applicable period, it does not require that the defendant be brought to trial. The absence of the defendant is not a reason to find the indictment or file the information.

The second amendment will change section 522—Insanity.

The defense of insanity is not set forth in any statute, nor has it been precisely defined by the judiciary. The Supreme Court has recognized the defense, but has never set about to define it. See *Davis* v. *United States*, 160 U.S. 469 (1895) (Burden of Proof). Rather it has allowed the lower courts freedom to fashion various rules, and experiment with them, rather than solidifying the Federal court system with any one definition. However, the defense is probably constitutionally required. See *Robinson* v. *California*, 371 U.S. 905 (1962) (Dictum).

The definition in S. 1 requires that the defendant must lack the requisite state of mind for the commission of an offense as a result of a mental disease or defect. This would essentially negate the defense of insanity, and at the least codify the earliest test used in judicial history. If the defendant lacks the requisite state of mind, he is not guilty; but if he does so as a result of insanity, he is insane. The defense of insanity means more than that.

There have been, and are currently, various tests for legal insanity. The earliest was the "wild beast" theory, that the defendant was responsible for his actions unless he was wholly deprived of understanding and memory to such an extent as to not know what he was doing. As psychology developed, and recognition of incompetent individuals grew, an expanded definition arose, in the famous McNaghten case. The test enunciated there, known as the right/wrong test, was whether the defendant was laboring under such defect of reason, from a disease of the mind, as to not know the nature and quiry of the act he was doing; or if he did know, that he did not know that what he was doing was wrong. This test is still the sole test in most common law jurisdictions, and in some States by statute. Most courts interpret the right and wrong in the test as being moral right and wrong, although some hold it to be the legal right and wrong. This test has been often attacked as being based on outmoded and erroneous psychological theories, and as concentrating solely on defects of reason and not emotion.

Another test, which is used as a supplement to the McNaghten rule, is the irresistible impulse test, or the inability to control one's conduct. This test states that notwithstanding that the defendant could comprehend the nature and consequences of his actions, and knew that what he was doing was wrong, nevertheless if he was forced to its execution by an impulse which he was powerless to control as consequence of a disease or defect of the mind, his conduct will be excused.

The American Law Institute, in its Moral Penal Code, proposed another test which has been adopted in a number of States. The test states that a defendant is not responsible for criminal conduct if "at the time of such conduct as a result of mental disease or defect he lacks substantial capability to either appreciate the criminality—wrongfulness—of his conduct or to conform his conduct to the requirements of law."

Another test which has had limited success is variously known as the Durham Rule, the "product" test or the New Hampshire Rule. It states that a defendant is not responsible for his criminal conduct if his unlawful act was the product of a mental disease or defect. The test as to whether the conduct is a "product" is legally the "but—for" test often encountered in the theory of tort law and is left to the jury to determine. The court merely regards cognition, volition, and capacity to control behavior—that is knowledge, will and choice—as the three essential elements of sanity, which the Government must prove. Any instruction to the jury on the defense of insanity must have the jury find on all three elements to prove sanity.

The Federal courts are currently divided on the tests, and variously follow the McNaghten test; the McNaghten test supplemented by the irresistible impulse test; see *Pollard* v. *United States*, 282 F2d 450 (6th Cr. 1959), rehearing denied, 285 F2d (6th Cir. 1960); the Model Penal Code Test, see, *United States* v. *Freeman*, 357 F2d 606 (2d cir. 1966) (rejecting McNaghten for Model Penal Code); *Black* v. *United States*, 269 F2d 38 (9th cir. 1959), cert. den. 361 U.S. 938 (1960) (rejecting Durham for Model Penal Code); also second, fourth, and fifth circuits; a

modification of the Model Penal Code known as the Currents Test, *United States* v. *Currens*, 290 F2d 751 (3d cir. 1961); the Three Elements Test, *Duskey* v. *United States*, 295 F2d 743 (8th cir. 1961) cert. den. 368 U.S 998 (1962); or the Durham rule as modified.

The formulation of insanity as a defense as presently drafted in S. 1 would essentially return the definition of insanity to the "wild beast" test. This is because in order to negate the mental elements in all but the public welfare offense—no mental requirements—such as known conduct, the defendant would have to be totally without understanding. That test predates McNaghten, which is itself criticized for being based on outmoded psychological thinking.

There is currently great controversy over what is the proper formulation of the insanity defense. The debate rages among psychiatrists and psychologists as to what is insanity, both legal and nonlegal definitions; and what constitutes incompetence. Legal theorists debate over the purposes of the insanity defense and the implicit fault concept in criminal laws.

The Supreme Court has taken the position that because the state of the art has not developed sufficiently, both in the law and in medicine it is too early to definitively define the defense. The better way is to allow experimentation to develop the most effective and proper formulation. In the Federal courts the most popular formulation is the Model Penal Code, but in the States the McNaghten, supplemented by the irresistible impulse test, is the most common. But a return to the earlier test, before the development of modern psychology, as S. 1 attempts, would reject the last 300 years of judicial and psychological history and learning. It is still too early to solidify the definition of insanity and until there is at least some moderate form of agreement the defense should not be codified. For that reason my amendment will eliminate from S. 1 a definition of the defense of insanity.

The third amendment changes section 551—Unlawful Entrapment.

The defense of entrapment to a Federal prosecution is judicially created. It is not presently set forth in any statute. The Supreme Court's latest statement of the defense is set forth in the case of *United States* v. *Russell*, 411 U.S. 423 (1973), which upheld the previous two entrapment cases of *Sorrells* v. *United States*, 287 U.S. 435 (1932), and *Sherman* v. *United States*, 356 U.S. 369 (1958). The Court stated that the defense will apply if the defendant was not predisposed to commit the offense and that the Government planted the intent to commit the offense in the mind of the defendant. Once this prior state of mind has been proven by the defendant the Government cannot thereafter punish the defendant for his unlawful conduct. The Court continued that the basis for the defense is that Congress did not intend that its criminal laws should be applied to such an individual who was previously, before the Governmental interference, not intending to break any law.

This formulation has become known as the subjective test, and was persuasively criticized by the dissents in Russell and by commentators thereafter. The competing formulation of the entrapment is known as the objective formulation, and was asserted by the minorities' opinions in the cases set out above.

There are basically three objections to the subjective formulation. The first is that it allows into evidence previously irrelevant and hearsay evidence on the predisposition of the defendant. To convict an individual the Government must show conduct on the part of the defendant—the actus reus—and also the requisite mental state of the defendant regarding his conduct and the consequences of the conduct—the mens rea. The subjective formulation raises the question of the origin of the mens rea of the defendant, and makes that origin the sole criterion of the defense.

The second objection is that the defense is all but disallowed for any individual who has been charged or convicted of any previous offense, or who is a "criminal." The evidence of any past criminality appears almost conclusively as showing that the intent to commit the crime arose within the defendant and that the Government merely allowed the opportunity for the individual to commit the crime; that is, did not entrap him. The agent's conduct toward people with past records, or with bad reputations, will therefore be less cautious and will not comport with a democracy's ideals of how its members should be treated by the police. Although it is true that criminals should be caught swiftly and dealt with by the courts, until that individual engages in specific conduct he should not be treated any differently than any other individual. Just because an individual has a past record or bad reputation he should not lose his rights to unwarranted police interference and persecution.

The third objection is more philosophical, but subsumes the other two objections. It is that the thrust of the entrapment should be an objective one, that the Government should not be allowed to follow certain courses of conduct in order to ensnare individuals into acting unlawfully for the purpose of gathering evidence of the unlawful activity. The focus of the defense should be the conduct of the law enforcement officers and the agents, and the propensity of their acts to cause criminal conduct. Some commentators have stated that if the conduct of the officers is flagrant enough, that the due process clause would bar a conviction. However, they state no cases in support of that position.

Entrapment is an affirmative defense. The defendant, under the subjective formulation, must prove by a preponderance of the evidence, that he had no predisposition to commit the offense and that the intent to commit the crime was implanted in him by Government agents. *Martinez* v. *United States*, 373 F2d 810 (10th cir. 1967). The defendant must first show his character as being law-abiding, and then prove that the conduct of Government did more than simply provide an opportunity for the defendant to commit a crime. The defendant must also show action by the Government to originate and implant in the defendant an intent to act unlawfully. The Government must merely show, by hearsay evidence, rumor and suspicion, that likely as not—defeat the defendant's burden of proof by a preponderance of the evidence—the defendant had a predisposition to criminal conduct.

By my amendment the defense is based on the American Law Institute's Model Penal Code, proposed Final Draft 1962, section s.13. It is an objective formulation, the thrust of which is the law enforcement officer's conduct and the probable consequences of that conduct. In order for the defense to arise, the officer must first induce or encourage the individual to engage in unlawful conduct. There are then two standards to judge the effects of the inducement to determine if the defense is applicable. The first is if the official knowingly makes false representations that the conduct will be legal if engaged in by the individual, then arrests them for the conduct. An example of this is the Cox against Louisiana case, where a sheriff told some demonstrators that in order for their protests to be legal they had to move to a parking lot nearby. When they did so they were arrested and convicted.

The second standard is that the methods of persuasion used by the officials in getting the defendant to engage in unlawful conduct create a substantial risk that the conduct will be engaged in by others than those ready to commit it. Any question of predisposition goes to the predisposition of the community at large, and will not foreclose the defense to individuals who have a "bad reputation." Individuals who commit crimes should be dealt with swiftly, but law-enforcement officials in the investigation of crimes and apprehension of criminals should be held to certain standards of conduct, and that standard is the very base of the defense of entrapment.

My amendment precludes the defense when the crime charged is causing or threatening bodily injury. Such conduct is clearly beyond social acceptability, and any time police conduct causes such crimes the defense should be governed by the standards of the defense of duress or the defense of protection of persons or property, which defenses are set forth in S. 1 at section 531, 542, and 543, respectively.

Mr. President, those are my amendments for chapter 5 of the Criminal Justice Reform Act of 1975. The first amendment for chapter 10 will change section 1001—Criminal Attempt.

In the statutes currently in force, there is no criminal attempt statute of general applicability. There are, however, crimes that are explicitly defined to include attempts. These are 18 U.S.C. 751 and 752—escape or assisting escapes; 18 U.S.C. 32 and 33—destruction of aircraft, motor vehicles or their facilities; 18 U.S.C. 351—congressional assassination, kidnapping and assault; 18 U.S.C. 1113—murder and manslaughter; 18 U.S.C. 1751—Presidential assassination, kidnaping, and assault; 18 U.S.C. 1751—actions at the residence of

our President; 18 U.S.C. 1892—wrecking trains; 49 U.S.C. 1492—aircraft piracy; and 40 U.S.C. 193(h)—actions on Capitol Grounds. This section of S. 1, as an attempt statute of general applicability, is a significant extension of the Federal Criminal Law.

The Supreme Court has not heard a case on criminal attempt and the lower courts are not in total agreement on the common law tradition of the crime of attempt. One of the basic problems of an attempt statute is to define the line between mere preparation to commit an offense, which is not punishable, and conduct constituting "attempt." The bill as drafted states that the conduct must "indicate his intent to complete" the crime. This is a very broad standard, as almost any act of preparation may "indicate" his intent. The law as presently drafted is very close to allowing prosecution for only an "evil intent" with a minimal conduct requirement—conduct that poses little or no threat to society. Therefore, my amendment would require that the defendant's conduct "unequivocably" indicate his intent—thereby strengthening the requirement that there be conduct that poses a threat to society.

S. 1, in its present form, precludes the defense of legal or factual impossibility. Although some commentators have recommended that these defenses be precluded, it is urged that this not be done. If precluded, the criminal laws would allow prosecution for simple wrongful intent, as the individual's conduct cannot amount to a crime. This area has always been a law professor's darling, and numerous famous hypotheticals come to mind. The person who thinks he is a witch doctor and can kill people by sticking pins in a doll—he has the intent, his actions indicate his intent, but there is factual impossibility of consummation. Should this be punished as attempted murder? The Lady Blackmore hypothetical is another well known example. Lady Blackmore returns to her native England with some fine French silks. She believes that there is a law requiring a duty to be paid on them, which she does not want to pay. She therefore hides the silks in an effort to smuggle them into the country. They are discovered on her entry but it turns out there is no law requiring a duty to be paid on them. She has the intent, and her actions indicate her intent, but there is legal impossibility of consummation of the crime. Should this be punished as attempted smuggling? Under S. 1 both of these hypotheticals should be prosecuted.

The hypotheticals point out the reasons for the defenses. Without these defenses conduct that cannot amount to a crime is punishable, because of the evil intent. The reason for there being a crime of attempt is to allow police officers to arrest individuals before they complete a crime—catching them in the act—and to punish individuals when the executed plans are stopped just short of completion, through the intervention of some other force. Certainly there is a need for the codification of such a crime, such codification allows the prevention of an injury to society, and eliminates the requirement of after the fact correction of injury if correction is possible.

The fifth amendment I am introducing today, and the second amendment to chapter 10, will change section 1002—Criminal Conspiracy.

The current conspiracy statute is set out at 18 U.S.C. section 371, and states that if two or more persons conspire to commit an offense against the United States, or to defraud the United States, and any person who do any act to effect the object of such conspiracy, they can be punished by up to 5 years in prison plus a fine, unless the object of the conspiracy is a misdemeanor, and then the punishment is the maximum for the misdemeanor. Conspiracy is another of the inchoate crimes and has engendered a great deal of controversy over the years. The courts, in dealing with the statute, have maintained and engaged the common law traditions and requirements of conspiracy, and have also required a specific intent on the part of any defendant to commit the objective of the conspiracy.

Section 1002 of S. 1 reflects of those requirements, but leaves the conduct element—besides the agreement—loosely defined. My amendment will make it clear that the conduct must be specifically in furtherance of the conspiracy, thereby maintaining the requirement that there be a specific threat to society, not just the possibility of further concerted action, and the requirement that there be a specific intent to effectuate the conspiracy by engaging in conduct.

As presently drafted, S. 1 defines an "objective" of a conspiracy to include "any measure for concealing, or obstructing justice in relation to, any aspect of the conspiracy." This definition will accomplish two things, it will expand the scope of conspiracy and make it a crime of perpetual duration.

The act of concealment is an objective and an element of all criminal activity—nc one wants to be caught. To make this capable of being the objective of a conspiracy would negate the need for almost all other crimes. If a group of people observed a mugging, and they "constructively" agreed not to summon the police, they could be guilty of conspiracy if they went home and did not call the police. Although their conduct is reprehensible, it should not be punishable as conspiracy. Conspiracy is an inchoate crime, and to many people an objectionable crime. At least the crime should be defined circumspectually. To allow silence as an objective of a conspiracy, and thereby allow criminal sanctions, goes beyond the reason for a crime of conspiracy—to punish the agreement to commit unlawful concerted activity when there is conduct to effectuate the agreement.

This section is very much like the question of concealment which I addressed earlier when discussing my amendment to section 511. Much of the analysis stated there must be restated here. As presently drafted the section provides that the crime will have no end, as the participants of a conspiracy will not endeavor to come forward and prove they committed a crime, they will continually keep silent. Although the courts have usually required that there be active concealment—as in the case of harboring a fugitive—such cannot be assumed and should be made explicit. The bill defines "conduct" as including "any act, any omission, and any possession," at page 34, line 38, which raises doubts as to that interpretation. This provision, then, effectively removes the statute of limitations on conspiracy, and will possibly engender the use of conspiracy trials whenever the statute of limitations has run on some other crime. The amendment therefore returns the definition of conspiracy to its more commonsense meaning—the act of conspiracy to commit the offense, the immediate flight therefrom, and the division of spoils.

In the affirmative defense set forth in S. 1, the defendant, in order to absolve himself of criminal liability, must voluntarily and completely renounce his criminal intent, and must also prevent the objective of the conspiracy from occurring. This is too great a burden to force upon the individual. He should be required to voluntarily and completely renounce his intent, but should not be absolutely liable if the crime is completed. He should be required at the most to act in a manner reasonably designed to cause the prevention of the crime. As currently drafted, if an individual renounced his criminal intent and went to the police, who either were unable to prevent the crime through some fortuitous event, or decided to allow the crime to occur in order to apprehend the criminals for their conduct, the individual would be prevented from asserting his worthy conduct as a defense, but rather would be liable with the others.

In the defense precluded subsection of section 1002 the basic common law rules have been maintained, with one objectionable exception. This subsection would preclude the defense that because all of one's alleged coconspirators have been acquitted, the Government can still proceed against the remaining individual. By my amendment the Government would, and should, be stopped from denying the earlier verdict. This provision goes against the common law of conspiracy, the current law of conspiracy, and the spirit if not the letter of the most recent double jeopardy decision of the Supreme Court, *Ashe* v. *Swenson*, 1970, which was cast in terms of estoppel. If this defense were to be precluded, an individual could be found guilty of conspiring with himself, because all his alleged coconspirators would have been found innocent. Such a series of attempted prosecutions would be more closely approximate harassment rather than a search for just retribution against criminals.

As to the punishment for this offense, the current statute sets 5 years if the conspiracy was to commit a felony, and the possible term for the misdemeanor if the conspiracy was to commit a misdemeanor. S. 1 would set the punishment at the punishment for the objective of the conspiracy. This, it is urged, does not adequately equate the punishment with the offense. The threat to society from conspiracy is unlawful concerted activity, but it should be presumed that in a

conspiracy prosecution the crime has not been completed. To hold an individual responsible for agreeing to commit a crime to the same degree as one who completed the crime does not comport with seriousness of their actions. My amendment would set the punishment at one-half the punishment of the objective of the conspiracy, which is sufficient to express the danger in concerted activity. The provision in some instances—Class A, B, or C felonies—would give longer prison terms, and in others a lighter sentence. The attempt is to equate the seriousness of the conduct with the punishment, which present law does not do, and which S. 1 fails to recognize.

The sixth amendment I am submitting today will change section 1003—Criminal solicitation.

There is currently no solicitation crime of general applicability. The only solicitation crime regards the soliciting of a bribe or public graft.

S. 1 basically sets forth the common law crime of solicitation. The affirmative defense, which allows for repentance of the act, although not accepted in all jurisdictions that have solicitation as a crime, is deemed appropriate as this is the third of the inchoate crimes—attempt and conspiracy being the other two—and as this is an extension of current Federal law. However, the requirement the defendant "prevent" the commission of the offense is too great a burden to place on the offender. My amendment will provide a more just standard which will require that the defendant takes reasonable steps to prevent the commission of the offense and acts to insure that he is not criminally liable if after his repentance and actions some fortuitous circumstance cause the commission of the offense.

NATURAL GAS EMERGENCY ACT OF 1975—S. 2310

AMENDMENT NO. 934

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

Mr. HOLLINGS (for himself, Mr. GLENN and Mr. TALMADGE) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 2310) to assure the availability of adequate supplies of natural gas during the period ending June 30, 1976.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 876

At the request of Mr. ABOUREZK, the Senator from Utah (Mr. Moss) and the Senator from Washington (Mr. JACKSON) were added as cosponsors of amendment No. 876, intended to be proposed to the bill (S. 1816) the Foreign Assistance Act Amendments of 1975.

AMENDMENT NO. 903

At the request of Mr. ROBERT C. BYRD, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of amendment No. 903, proposed by him (for himself and others) to the amendment of the Senator from Pennsylvania (Mr. HUGH SCOTT, for himself and others) to the bill (H.R. 8069) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

ORDER FOR STAR PRINT—SENATE RESOLUTION 256

Mr. KENNEDY. Mr. President, because of a typographical error in printing, I ask unanimous consent that a Star Print be made of Senate Resolution 256, the Senate resolution I submitted in support of the people of Portugal.

NOTICE OF GOVERNMENT OPERATIONS COMMITTEE MARKUP ON S. 957, TO AMEND THE INTERGOVERNMENTAL PERSONNEL ACT OF 1970

Mr. RIBICOFF. Mr. President, I wish to announce a markup by the Government Operations Committee on S. 957, which amends the Intergovernmental Personnel Act of 1970 to improve personnel administration in State and local governments.

The markup will be on Wednesday, October 1, at 10 a.m. in room 3302, Dirksen Senate Office Building. Other committee business may also be considered.

NOTICE OF HEARINGS

Mr. LEAHY. Mr. President, the Subcommittee on Environment, Soil Conservation, and Forestry of the Senate Agriculture Committee will hold hearings on S. 2308 in Bristol, Vt., on September 28, 1975, from 7:30 p.m. to 9:30 p.m. and on September 29, from 8 a.m. to 3:30 p.m.

This proposed legislation would revise the boundaries of the Bristol Cliffs Wilderness Area and is of great interest to the residents of the Bristol area. I want to thank Senator TALMADGE, chairman of the committee, for his cooperation in permitting this unusual Sunday hearing which will permit property owners who could not otherwise do so to testify before the subcommittee.

ADDITIONAL STATEMENTS

DEVELOPMENT OF U.S. NUCLEAR POWER POTENTIAL

Mr. STEVENS. Mr. President, on September 18, 1975, Senator HOWARD BAKER from Tennessee addressed the American Nuclear Society Executive Conference on Nuclear Legislation. As we are all aware, Mr. BAKER, as a member of the Joint Committee on Atomic Energy, has developed considerable expertise in this field.

In this address Mr. BAKER focused on the need for a sensible development of the U.S. nuclear power potential as the best means to decrease our dependence on the dwindling supply of petroleum products. He discussed the safety aspects of nuclear power and urged that all incidents regarding nuclear energy be discussed with all the facts known. When mistakes are made Mr. BAKER has urged that they be examined and the necessary steps be taken to make sure they do not occur again. Mr. BAKER also charted a course urging the cooperation of both the public and the private sectors to develop an abundant, safe source of nuclear energy.

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

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

"AS TIME GOES BY"

(By Senator Howard H. Baker, Jr.)

Tonight I would like to focus my remarks on what I believe are some of the major problems and opportunities of the nuclear power program. I will also review the status of several bills before the Joint Committee on Atomic Energy, and suggest additional areas where legislative solutions or partial solutions may be needed to help the industry.

In the movie "Casablanca," Humphrey Bogart's piano playing friend played a famous song which included the words "the fundamental things apply as time goes by." Although the song was referring to items of a somewhat more esoteric nature than nuclear power, the thought can be applied almost as well to an overview of the nuclear world today. Let's look at some "fundamental things" relative to nuclear power and see how they have changed or remained constant with time.

NUCLEAR POWER GROWTH

In less than two decades we have seen nuclear power grow from an experimental energy source to a system that now provides that 8% of the nation's electrical needs. In some regions of the country, such as New England, the percentage of electricity generated by nuclear power is in the 30% range. This remarkable growth is due in part to the Power Demonstration Reactor Program, a cooperative venture of the Atomic Energy Commission and the civilian nuclear industry, strongly supported by the Joint Committee on Atomic Energy. It is a tribute to this cooperation that as of August 1st of this year, there were 54 nuclear power plants licensed to operate, and another 187 plants under construction, ordered or announced. By 1985 about 200 nuclear power plants should be in operation. By the year 2000 the figure may rise to 800.

It is particularly important at this time to underscore the fact that the use of nuclear power can significantly reduce the amount of *oil* this country consumes—much of which must now be imported. A recent survey by the *Public Utility Fortnightly* indicated that power from the atom in 1974 saved about one-quarter of a billion barrels of oil which might otherwise have had to be imported. By 1985, this saving should increase to about 2.4 billion barrels of oil per year—which is about the amount the U.S. is presently importing. Clearly, the role of nuclear power in our economy is changing "as time goes by."

NUCLEAR POWER SAFETY

One fundamental thing that has not changed, however, since the inception of civilian nuclear power is the devotion to safety by all involved. No one has ever been killed or injured in a nuclear accident at a commercial power plant. I won't take the time to dwell in detail on the measures that are employed to assure the safety of these plants, but they include research and development programs to identify potential safety problems and to find suitable solutions before accidents happen. Also included are the application of sound engineering standards and quality assurance procedures in reactor

design, construction and operation; the use of engineered safety features to prevent the occurrence of accidents or to limit their effects in the highly unlikely event that an accident should occur; and the imposition of comprehensive technical reviews of all factors affecting plant design and safety.

Let's take a few moments to examine how these safety measures work out in practice by examining two incidents that occurred earlier this year. In one, which illustrates the operation of the inspection function noted above, the Nuclear Regulatory Commission took the position that there was concern about the safety of piping in the twenty-three operating boiling water reactors, as a result of defects found in several reactors. A directive was issued by the NRC that the piping in these reactors be inspected within 20 days. This action resulted in some curtailment in operation or temporary shutdown of several reactors. Detailed inspections were made, minor problems were uncovered and repaired, and the reactors were then put back into operation. The Joint Committee on Atomic Energy held a hearing on this subject, which served to assure the public that the situation and questions raised by it were properly aired.

In a more recent incident, a fire occurred on March 22, 1975, at the Browns Ferry Nuclear Plant located near Decatur, Alabama. As most of you know, the Joint Committee held a hearing on the circumstances and implications of this fire just two days ago. There are a few points worth emphasizing in relation to this important occurrence.

Because of the fire, all normally used shutdown cooling systems and other components which comprise the emergency core cooling system (ECCS) for Unit 1 were inoperable for several hours. The ability to monitor certain important components was also lost due to damage to about 2000 electrical cables in Units 1 and 2. A serious incident? Certainly. Extensive monetary damage? Yes. But it is important to note that failure or inoperability of the ECCS alone is not the equivalent of having a reactor "accident." The ECCS is designed to accommodate a pipe break accident, and no such event occurred. While some normally used shutdown cooling systems were also inoperative, plant operators were able to provide alternate means to cool the reactors. The important point is that duplicative and redundant systems were available, and successfully used. Such is what nuclear reactor safety demands. Both Unit 1 and 2 cores remained adequately cooled throughout the fire.

While the fire was costly, and the Joint Committee public hearing Tuesday showed that there is need for improving practices and procedures to prevent such an occurrence, I believe that this important accident showed that nuclear power plants indeed have a large margin of safety built into them.

PUBLIC RELATIONS

Every incident that occurs, however, no matter how large or small, contributes to the public relations problem that has haunted the peace-time nuclear industry from its inception. Too many have blindly assumed that since nuclear-release accidents have never occurred, the public would readily accept atomic energy sources. While acceptance has come on a widespread scale, so have serious doubts based on a couple of occurrences.

First, nuclear energy was presented to the world in 1945 as a weapon of destruction. We first saw it as an awesome military weapon and that stigma remains yet with us.

Second, the nuclear industry, it seems to me, did not present its initial case for nuclear power in a completely objective manner. The early promises of nuclear power as a panacea for all our energy problems were overly optimistic at the very least. There was also a tendency within the nuclear community to regard those who questioned the fledgling nuclear programs as infidels.

What is needed now is a concerted effort to "tell it like it is." If mistakes are made, we should all admit them and go on to solve the problem. The public has the right to know what is being done in such an important area.

In this connection, I believe you will note that the Joint Committee on Atomic Energy this year has assumed more of a "watch dog role" than we have in recent years. Again, truth and objectivity are fundamental things we should work toward that will serve us best in the long run.

LEGISLATIVE ISSUES

Not only is public safety a vital concern, but there are some significant legislative questions now under deliberation that merit all of our attention. Questions soon to come before the Joint Committee on Atomic Energy include the extension of the Price-Anderson Act, the question of current licensing and plant siting procedures, the entire area of uranium enrichment, and questions relating to nuclear waste disposal. Let's examine them one by one.

PRICE-ANDERSON

The Price-Anderson Act was enacted in 1957, as an amendment to the relatively new Atomic Energy Act of 1954, and was extended in 1965 to its current expiration date of August 1, 1977. Undoubtedly, all of you are aware that the Congress passed a five-year extension of the Act last year and that the President vetoed the bill on October 12, 1974. The President's veto was based on a constitutional infirmity in the section of the bill which allowed the Congress to prevent the legislation from becoming effective by passing a concurrent resolution within a specified time. In his veto message, however, the President cited his approval of the substantive sections of the bill and urged the Congress to reenact the measure without the offending provision.

Hearings are scheduled next week which hopefully will highlight some of the problems and advantages of Price-Anderson pursuant to Congressional action on the matter shortly. While I think it is important that all responsible opinions be aired, I am sure that a satisfactory bill will be reported and adopted before long. I have a considerable degree of faith in the ability of the Joint Committee and the Congress in toto to act responsibly and to strike the delicate balance which will protect the public and guarantee satisfactory incentives for private industry.

Personally, I have a generally favorable view of the proposal submitted by the Federal Energy Administration. With minor modification, I am sure that such a proposal or one like it will be the "new Price-Anderson." No matter what the outcome, the important overriding purpose has been and must continue to be, to protect the public.

SITING-LICENSING LEGISLATION

Some of the attempts to protect the public, however, have resulted in significant delays relative to the siting and licensing of nuclear facilities. The 9–10 years now required to construct and license nuclear plants must be reduced without endangering public safety. Perhaps some methodology can be developed that will provide potential licensees with some timely assurance as to the regulatory requirements that must be met.

Problems currently created by the ever-changing regulatory requirements continue, and there appear to be some who believe that the situation is worsening. Laudable goals such as standardization remain elusive. Are the reasons for this found in the existing licensing provisions of the Atomic Energy Act, or is the problem one which requires a solution by means other than amendments to the licensing provisions in the Act? It is very important that the problems and their causes be identified so that there can be constructive actions taken. In short, we need more than the annual discussions of the need to reduce the long lead-time. I can think of no better source of information on existing problems, their causes and recommended solutions, than the engineers and managers who personally are involved in satisfying regulatory requirements for the construction and operation of nuclear facilities.

I am inclined to believe that most, if not all, of licensing reforms can be handled without any major changes in the basic licensing legislation. In any event, any legislative change which would tamper with the traditional procedural rights of contestants in adjudicatory public licensing hearings must be avoided or enacted only after the most careful consideration. All relevant radiological safety and environmental impact information concerning a licensed nuclear facility should be readily and freely available to the public with language, at least in summary form, which candidly and in understandable terms states the bad along with the good.

URANIUM ENRICHMENT (NUCLEAR FUEL ASSURANCE ACT)

Perhaps, however, the area that will, in the long run, have the greatest impact on nuclear development is one which clusters around the general topic of uranium enrichment. As all of you certainly know, enriched uranium is necessary in increasing quantities to provide adequate fuel for plants now in operation. This problem will be compounded in the very near future when installations now under construction enter operable stages.

Currently, the government owns three operating enrichment plants. Their capacity for fuel production is essentially committed at the present time. We face the situation in the not too distant future where nuclear fuel for foreign countries and their utilities may be enriched elsewhere—in Western Europe, the Soviet Union, or possibly Japan. Certainly we will be unable, given the current trends, to meet our existing commitments at home and abroad unless we increase our capacity by 1983. Assuredly, if provisions are not made to "meet the market," we will see a proliferation of the troublesome sale of enrichment capacity to other countries, with the danger that the operation may not be appropriately supervised and carefully safeguarded.

In view of the long lead-times currently required to build the separation plants and supporting facilities, it is *imperative that the Congress act, and act now.* Unless we provide additional enrichment facilities soon, we are going to lose our leadership in the world in this vital field.

The "fundamental issue" here would appear to be whether future plants should be built by the government or by private industry, although I think there may be another solution, as I will discuss later.

The Administration has submitted a legislative plan to Congress which favors production by private industry by providing it with substantial governmental guarantees. Although my thinking is somewhat tentative at this point, I tend to lean in another direction for the immediate future. I believe the best solution in the short term is for the government to build add-on capacity at a current plant, probably at Portsmouth, Ohio, while encouraging private industry *at the same time* with whatever reasonable guarantees are necessary to bring a consortium together to build the first private plant. The need in the long term will be substantial enough that government and industry inexorably will view one another as partners rather than adversaries.

Not only do I believe the government must move now with add-on capacity *and* encouragement of the private sector, but I think Congress must shortly bring plans to fruition

that lead us toward gas centrifuge technology as well.

It seems reasonable to me that the government proceed to build a gas centrifuge demonstration plant, prove the technology workable, and then let it enter the private market. The overall constraint in every area, however, is that something be done soon.

The foregoing is not meant to reject out-of-hand the Administration's proposal for UEA. Indeed there are many aspects of it that are uniquely attractive. For instance, I think it is superior to previous plans which call for the sale of government diffusion plants to private industry. I seriously doubt that we could ever agree on a price; I suspect that price would become a volatile political issue. However, several aspects of the plan will have to be dealt with as fundamental policy determinations. For instance, are we going to permit foreign equity ownership? Do we use the guarantee of technology and scientific efficacy of the gaseous diffusion system to serve the additional purpose of enhancing capital leverage beyond that which the private credit market might otherwise accept? How do we treat the "cut and run" provisions of the proposal? None of these problems is insuperable, and all are appropriate to pubic debate. I would be hopeful that an early resolution might be found.

In short, there is ample room for the continuing existence of government-owned diffusion capacity and private ownership of future facilities, both diffusion and centrifuge. The two, private and public, can live together. Time is of the essence, and that is the basic reason why I suggest that we may adopt this hybrid proposal.

BACKEND OF THE NUCLEAR FUEL CYCLE

Additional nuclear capacity, which new and existing plants will thankfully provide, will not be without problems, however. Perhaps, the most pressing of these will be the so-called "back-end" of the fuel cycle, or those operations which occur after fuel is discharged from the reactor. Somewhat surprisingly, the same Harris poll which highlighted overwhelmingly majority support (63%) for continuing the development of nuclear energy also showed that the public perception of radioactive waste disposal was a major concern. This reinforces the need to develop and implement solutions to this problem as well. The storage and reprocessing of fuel to recover uranium and plutonium presents a unique problem today, since there is currently no domestic capacity to do so. The Nuclear Fuel Services (NFS) plant in New York is unlikely to be back into operation before 1980. The GE plant at Morris, Illinois, is mothballed due to technical difficulties, and it is far from certain that the AGNES plant at Barnwell, South Carolina, will be able to come on line as rapidly as some project. Under the best of circumstances, it will be several years before sufficient reprocessing capacity is available.

In this light, the R and D program being planned by ERDA for developing new and improved processes and equipment for the backend of the fuel cycle is an encouraging note. I am happy to say that the plan, proposed in the ERDA FY 1976 authorization bill budget amendment, was passed by the Senate with only minor modification on July 31st.

Closely related to the reprocessing problem is the delay which has apparently developed with respect to the proposed large scale use of plutonium-bearing fuels in commercial reactors. The "provisional view" of the Nuclear Regulatory Commission announced last May was that a final decision on plutonium recycle could not likely be reached until mid-1978. While I appreciate the difficulties in rule-making technicalities, I would strongly urge the Commission to give thorough attention to this matter as rapidly as possible.

Another area that demands prompt attention and firm policies is that of high-level radioactive waste disposal. Although the basic technology, like reprocessing technology, has been known for some time, our performance in this area has been mediocre at best. The Joint Committee recognizes the importance of solving this matter in a safe, economical way, and at the time of the FY 1975 authorization hearings directed ERDA to prepare a comprehensive analysis of waste storage and disposal options in the 1975–85, 1985–2000, and beyond-2000 time intervals. This plan is to be submitted to the Committee by March 31, 1976. In the interim, the Committee may decide to hold hearings on the conduct of commercial waste management activities by ERDA, as well as the regulatory role of the NRC.

LIQUID METAL FAST BREEDER REACTOR

No overview of nuclear power these old days would be complete without at least some reference to the Liquid Metal Fast Breeder Reactor. In concise terms, I feel it is important that the Clinch River Breeder project proceed as rapidly as possible. I recognize the need for continued Congressional surveillance of this program and expect that the Joint Committee will exercise its watchdog function with special care, particularly in the areas of cost overrun and construction delay.

It is clear to me, however, that if we are to avoid the economic and social distress of dependence on foreign fuel in the future, we have to go forward with the breeder reactor technology. I am hopeful that the decision to move ahead has already been made, and that the breeder program will not come under serious attack in the future. That depends to a large extent on how well the management of the project performs in the time just ahead.

CONCLUSIONS

If my remarks tonight sound somewhat urgent, it is because they are meant to be. The problems of safe and sensible development and operation of America's nuclear energy capability are no more nor less important than America's energy problem as a whole. With the combined efforts of responsible legislators and gifted developers such as yourselves, we can solve this problem. We have no other choice but to cooperate. While nuclear energy has its considerable problems, I consider its development to be essential. Unless we act collectively and act now, the recent words of Howard K. Smith may come to haunt us:

". . . there are only two real resources: dig much more coal; build many more nuclear power plants, soon.

"After living with the literature on it for months, I am convinced nuclear is better. Our 56 plants now are safer than driving automobiles. Most European allies have made the decision so go flat out for nuclear power, and we should too: establish target plant numbers and dates of completion, allocate capital resources to build them, and get to work.

"Or else, sure as sunrise, the day will come probably in the near eighties, when homes will grow cold, auto traffic turn to a trickle and industries go on two-day weeks for lack of fuel."

Though the choice may not be as clear-cut as either coal or nuclear power, and while I suspect for the next two or three decades we may have to develop both, I generally agree with his not overly-dramatic glimpse of the future.

I pledge to you my efforts to assure that Mr. Smith's cold, empty 80's do not occur. I believe that nuclear power will play a substantial role in making this country ever more successful and energy-independent "as time goes by."

A LETTER FROM A DEPARTED SON

Mr. MONDALE. Mr. President, there is probably no experience more painful for a parent than the death of a child. Last August, Jon Bergland, the son of Representative BOB BERGLAND was killed in an automobile accident. The circumstances surrounding his death were tragic but not altogether extraordinary—thousands of young people are senselessly killed on our highways each year.

What was unusual is that before Jon died he had written a letter to his parents expressing his appreciation for the love, the wisdom and the understanding that they had shown him. It is one of the most moving letters I have ever read. Reflected in it is a young man with the insight and strength of character to be able to say without hesitation, "thank you Mom and Dad for being so loving."

Yesterday BOB BERGLAND agreed to make public this letter in the hope that it would serve as an inspiration to other parents who have suffered a similar loss. Despite the doubt and cynicism that often cloud family relationships today, in reading this letter I think each of us can get a better sense of how fragile life is and how much fuller it can be when we learn to recognize what is truly important.

Mr. President, I ask unanimous consent that an article discussing this letter from yesterday's St. Paul Pioneer Press by Al Eisele be printed in the RECORD.

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

LETTER FROM SON NOW DEAD SPEAKS TO ALL PARENTS

(By Al Eisele)

WASHINGTON.—This is a story about a young man who wrote a letter to his parents telling them how much he loved them.

The letter is not particularly unusual or newsworthy, except that it goes against the stereotype of today's younger generation as blase and self-centered.

It contains no eloquent phrases nor any profound thoughts, and is filled with frequent spelling and grammatical errors. In fact, the young man who wrote the letter never even mailed it.

But it is now his parents' most prized possession, a precious document that they and their family will treasure and draw strength from for the rest of their lives.

The letter was written sometime in the last year by Jon Lynn Bergland and intended for his parents, Helen and Robert Bergland of Roseau, Minn., and Washington, D.C.

It was discovered by young Bergland's family in his personal effects on Aug. 21, four days after he was killed in an automobile accident near his family's farm in northwestern Minnesota.

His father, the Democratic congressman from Minnesota's 7th Congressional District, and his mother agreed to release the letter last week at the request of a reporter, but only after expressing their desire that it serve as a testimonial to their son and possibly as an inspiration to other parents who have suffered a similar loss.

The letter is undated, but the Berglands know it was written sometime between September 1974, when Jon enrolled as a student at a vocational-technical school in Staples, Minn., and March, 1975, when he turned 19 since he refers to being 18 at the time.

It was discovered the day after Jon's

funeral when the family was going through his personal effects taken from his apartment at Staples, where he intended to return this month to study agriculture and eventually take over the family farm.

The single-spaced typewritten letter, addressed "Dearest Mom and Dad," contains a reference to a childhood accident in which Jon was severely burned at age 6, and had to have extensive therapy to keep his legs from being damaged by scar tissue. It reads as follows:

"I know it may seem that I was not always grateful for my mother and father but, I, after looking at all of the other kid's parents, I relise how lucky I was for having you two as parents. There were times when I could not see your lodgic you used in raising me. But I now see I must have been the richest boy on earth to have you two as parents."

"I hope all of my brothers see someday, as I do now, how lucky and rich they really are. I do not think you goofed once in the raising of me. You have given me all that I ever needed, you have given me: Love, money when I need it, attention when I needed it, you have given me a good education, you have given me a common sense, and a realistic look at life and the world. With all that you have taught me, there is no way I can go wrong in life. How I feel about you two, words can not say, for words do it injustice.

"Mom, I know there were times when I tried my hardest to get under your skin, but you have always treated me right. Dad, hang on to Mom. I know there are a lot of people who search all of their lives for someone like her.

"Mom, I would like to thank you very, very much, for loving me enough, and caring for me enough to work with me when I was burnt. For straightening my legs out so I would not be a cripple all of my life. It was painful for me, but now that I am older, I can look back at it, and see it must have hurt you a million times more. Thank you!

"Dad, I thank you for being such a great father. For taking me camping, for taking me hunting and fishing, and teaching me how to be a real man. I hope that some day I am half the man you are. I thank you for being a person I could always look up to. I really look up to you both as a father and a man. You have shown to me what being a man is. You have shown me what positive thinking, persistence, hard work, real hard work, and determination can get a man in this life.

"I do not care what people say, if a kid takes drugs, or drinks until his mind is gone. It is not the child's fault. It is the fault of the parents. I am not any different from any other child and I have made it through life without any drugs for crutches, you know why? Because I have such great parents.

"If I ever get married and have kids, I hope I can raise them half as good as you raised me. You have given me the prime of your lives, and every possible break I could have. You have given me all of your love, my only regret is that it took 18 years of my life and 12 years of school to really realize all of the sacrifices you both have made in order to keep this greedy and ungrateful little kid happy.

"Thank you for everything!! I am happy that I realize how lucky I really am before I left home, so now I have the opportunity to thank you, an opportunity not all children have.

"Thank you Mom and Dad for being so loving."

(signed) JON.

"P.S. I will love you both for the rest of my life, no matter what may come up in the future. Remember that always. Look with your imagination, find out what you already know, and you will see how much I love you."

The elder Bergland said last week that although they knew their son had a "tender, serious, thoughtful side," it was usually disguised by his love of an active physical life, especially outdoor activities such as hunting and fishing.

"We never had any trouble with him," Bergland said. "He gave us 19 years of happiness for which we're thankful and we have six other children to enjoy."

Bergland said his family's close ties and their strong religious faith have helped them overcome the shock of Jon's death.

"I guess it teaches us the lesson that we tend to take life for granted and that we live by the grace of God," he explained. "Life is really very fragile and I guess we never really think it can happen to us until it does. But he was a good boy and we know he's in good hands."

As for the letter, Bergland made only a few copies to share with family and close friends. "We put the original in a safe where it will stay for the rest of our lives," he said. It's our most prized possession."

THE OYSTER AND THE EAGLE

Mr. McCLELLAN. Mr. President, I received an exceptionally thought-provoking letter recently from Mr. D. B. Kurfees, president of Kurfees Coatings, Inc. It is so pertinent to prevailing conditions in our times that I would like to share it with my colleagues. I ask unanimous consent that the letter be printed in the RECORD.

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

KURFEES COATINGS, INC.,
Louisville, Ky., September 5, 1975.

Hon. JOHN L. MCCLELLAN,
Senate Office Building,
Washington, D.C.

The thought below was shared with me by a friend. The author is unknown to me. When I read it, my thoughts were of you and your mantle of responsibility, so I'm sharing it with you.

"THE OYSTER AND THE EAGLE

"When God made the oyster, He guaranteed him economic and social security. He built the oyster a house, a shell to protect him from his enemy. When hungry, the oyster simply opens his shell, and the food rushes in.

"But when God made the eagle, He said, 'The blue sky is the limit. Go build your own house.' And the eagle went and built his house on the highest mountain crag, where storms threatened him every day. For food, he flies through miles of rain and snow and wind.

"The eagle, not the oyster, is the emblem of America!"

As you vote your conscience, remember the eagle. Don't secure us. Keep us free.

D. B. KURFEES,
President.

THE COSTS OF OVERREGULATION

Mr. FANNIN. Mr. President, the most persistent complaint that one hears about Government regulation concerns the mounting paperwork requirements and bureaucratic red tape. Businessmen are concerned that ordinary business decisions are increasingly controlled by Federal bureaucrats who are accountable to no one and do not understand or care about the problems involved in running a business and making a profit. Ordinary citizens are complaining loudly about "dumb government" and the mistakes and inefficiency of faceless bureaucrats in Washington which result in delay, higher prices and taxes, and numerous other frustrations they must put up with in their daily lives.

Criticism of Government agencies and bureaucrats is spreading as interest in regulatory reform increases. Perhaps no one has made a more informative analysis of Government regulation and regulatory problems than Murray L. Weidenbaum, the distinguished economist and author of "Government Mandated Price Increases" published by the American Enterprise Institute in Washington. Professor Weidenbaum, a former Assistant Secretary of the Treasury, is director of the Center for the Study of American Business at Washington. I recommend Dr. Weidenbaum's AEI study to my Senate colleagues.

In the Tax Foundation's August issue of "Tax Review," Professor Weidenbaum discusses the hidden costs of Government overregulation to industry and consumers. As he points out, the long held "notion of benign and wise officials making altogether sensible decisions in the society's greater interests" does not fit the facts. Instead, "we find waste, bias, stupidity, concentration on trivia, conflicts among regulators and arbitrary and uncontrolled power"—the professor's words but the same criticisms I find in talking to my constituents or in reading letters from Arizonans who denounce "dumb bureaucrats."

Dr. Weidenbaum contends that the proliferation of Government agencies exercising control over business is costing the American consumer and taxpayer huge sums. Recently U.S. News & World Report estimated that Federal employees with regulatory functions, estimated at over 63,000 in number, cost the public about $130 billion a year. While the estimates may vary, the result is the same: excessive Government regulation stifles productivity, eliminates competition, increases consumer costs and substantially contributes to inflation.

As the author demonstrates, regulators lack understanding of those they regulate and ignore cross-cutting concerns broader than the specific charter of their own agency—matters such as productivity, costs and inflationary impacts. Professor Weidenbaum cites several chilling examples to support his contention that Government regulation, however well-intentioned, is often harmful in its effect on society.

Regulatory reform is long overdue. As Dr. Weidenbaum suggests, alternative means of achieving important national objectives, such as job health, equal employment, energy conservation, and product safety, should be explored. The Congress must consider solutions that expand rather than reduce the role of the market.

Mr. President, I request unanimous consent that the full text of Murray Weidenbaum's article, "The Cost of Overregulating Business" be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

[From Tax Review, August 1975]

THE COST OF OVERREGULATING BUSINESS

(By Murray L. Weidenbaum)

A massive expansion of governmental controls over private industry is clearly underway. Government officials are playing an ever larger role in what traditionally has been internal business decisionmaking. Yet the new wave of governmental regulations is not merely an intensification of existing activities; in good measure, it is a new departure.

In the cases of the Environmental Protection Agency, the Equal Employment Opportunity Commission, the Consumer Product Safety Commission, the Federal Energy Administration, and the Occupational Safety and Health Administration, regulatory powers are not limited to a single industry. In the case of each of these relative newcomers to the Federal bureaucracy, its jurisdiction extends to the bulk of the private sector and at times to productive activities in the public sector itself.

They are thus not concerned with the totality of any single company or industry, but only with the specific segment of operations which falls under their jurisdiction. This limitation can result in a total lack of concern over the effects of its actions on the company or industry as a whole.

Little if any attention may be given to the basic mission of industry—to provide goods and services to the public. Also ignored may be crosscutting concerns or matters broader than the specific charter of the regulating agency, such as productivity, economic growth, employment, cost to the consumer, effects on overall living standards, and inflationary impacts. Its perspective is that of the proverbial dentist who sees his patient as merely two rows of teeth, surrounded by a mass of miscellaneous material.

No realistic evaluation of the overall practice of government regulation comfortably fits the notion of benign and wise officials making altogether sensible decisions in the society's greater interests. Instead we find waste, bias, stupidity, concentration on trivia, conflicts among the regulators and, worst of all, arbitrary and uncontrolled power. These are not idle statements. Let me cite chapter and verse to support them.

Purchasers of new cars produced in the United States in 1974 paid over $3 billion extra for the equipment and modifications needed to meet federal requirements. Mandatory auto buzzers and harnesses (the widely detested "interlock" system) will rapidly fade into history due to recent congressional action, but not until after more than 40 percent of the owners of those expensive and annoying contraptions disconnect them or otherwise find ways of avoiding their use. Nevertheless, the phenomenon of government adding to the costs of private production is continuing.

The agencies carrying out federal regulation are proliferating. In the past decade alone, we have seen the formation of the Consumer Product Safety Commission, the Environmental Protection Agency, the Federal Energy Administration, the Cost Accounting Standards Board, the National Bureau of Fire Prevention, the Mining Enforcement and Safety Administration, the National Highway Traffic Safety Administration, and the Occupational Safety and Health Administration, to cite the better known ones.

The administrative costs of the army of enforcers (approximately $2 billion a year to support a regulatory workforce in excess of 63,000) represents but the tip of the iceberg. It is the costs imposed on the private sector that are really huge, the added expenses of business firms which must comply with government directives, and which inevitably have to pass on these costs to their customers. A direct cost of government controls is the growing paperwork burden imposed on business firms: the expensive and time-consuming process of submitting reports, making applications, filling out questionnaires, replying to orders and directives, and appealing in the courts from some of the regulatory rulings. There now are 5,146 different types of approved government forms. Individuals and business firms spend over 130 million man-hours a year filling them out.

Clearly, the regulators do not always understand those they regulate. One manufacturer who attended a federal meeting on the paperwork burden was advised not to worry about the matter personally but to have his staff complete the forms. He replied, "When I attend this meeting the staff is right here with me. It's me."

A small, 5000 watt radio station in New Hampshire reported that it spent over $26 just to mail to the Federal Communications Commission its application for renewing its license—and that was before the last rate increase. An Oregon company, operating three small television stations, reported that its license renewal application weighed 45 pounds. At the other end of the spectrum, one large corporation, with about 40,000 employees, uses 125 file drawers of back-up material just to meet the federal reporting requirements in the personnel area. The personnel manager contends that one-third of his staff could be eliminated if not for these requirements.

Another hidden cost of federal regulation is a reduction in the rate of technological innovation. The longer it takes for a change—a new product or a more efficient production process—to be approved by a federal regulatory agency, the less likely it is that the change will be made. Professor William Wardell of the University of Rochester Medical School has shown that as a result of the more liberal policy in the United Kingdom toward the introduction of new drugs, Britain has experienced clearly discernible gains by introducing useful new drugs, either sooner than the United States or exclusively. Professor Sam Peltzman of the University of Chicago estimates that the 1962 amendments to the Food and Drug Act are delaying the introduction of effective drugs of about four years.

BUREAUCRATS ENGAGE IN TRIVIA

An expected result of the lack of attention to the costs of regulation is the opportunity for bureaucrats to engage in all sorts of exercises in trivia and on occasion sheer nonsense.

Consider the plight of the small businessman who tries to deal with the Occupational Safety and Health Administration (OSHA) rules without paying for expensive outside assistance. The kinds of questions that he must face are: What size to establish for toilet partitions? How big is a hole? (it depends where it is). When is a roof a floor? What colors to paint various parts of a building? How frequently are spittoons to be cleaned? The public's taxes actually support people who are willing to establish and administer regulations dealing with these burning issues.

Take what should be a simple matter, the definition of an "exit." The dictionary tells us that "exit" means "a passage or way out." But the OSHA enforcers, defining "exit" is a challenge to their bureaucratic instincts, and they are not found wanting. To OSHA, an "exit" is "that portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in this subpart to provide a protected way of travel to the exit discharge."

"Exit discharge," in turn, is defined merely as "that portion of a means of egress between the termination of an exit and a public way." And "a means of egress" is defined as "a continuous and unobstructed way of exit travel from any point in a building or structure to a public way and consists of three separate and distinct parts: the way of exit access, the exit, and the way of exit discharge. A means of egress comprises the vertical and horizontal ways of travel and shall include intervening room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, exits, escalators, horizontal exits, courts, and yards."

Unlike the dictionary, OSHA is unable to provide a definition of exit which does not contain the word exit in it. And exit is a comparatively easy one. Try "ladder," where the reader literally has to cope with three renditions of the same tedious set of definitions plus one trigonometric function. The puzzlement over OSHA regulations extends even to the chairman of the Occupational Safety and Health Review Commission, the independent agency created to hear appeals from rulings by OSHA inspectors. After citing one vague standard, he lamented:

"What do you think it tells us to do?

"I have no idea—and I don't think OSHA could tell you either, before an inspection, citation, complaint, hearing and post-hearing brief.

"I submit that there isn't a person on earth who can be certain he is in full compliance with the requirements of this standard at any particular point of time."

OSHA does not have a monopoly on regulatory foolishness. An examination of the proposed Uniform Guidelines on Employee Selection Procedures is also quite revealing. The Guidelines were drafted by the U.S. Equal Employment Opportunity Coordinating Council to assure that the procedures, in both the public and the private sectors, do not discriminate on the basis of race, color, religion, sex or national origin. The objective surely is worthy. Yet the specific guidelines which the Council has developed have been challenged by such professional organizations as the American Society for Personnel Administration and the American Psychological Association.

A mere reading of the proposed regulations reveals the basis for the concern. Smaller employers would have great difficulty in just understanding the regulations, while large and small companies alike would find it extremely difficult and expensive to comply. Even when the Coordinating Council tries to ease the burden on employers, the result challenges the understanding of the business executive:

"A selection procedure has criterion-related validity for the purpose of these guidelines, when the relationship between performance on the procedure and performance on at least one relevant criterion measure is statistically significant at the .05 level of significance. . . . If the relationship between a selection procedure and a criterion measure is significant but nonlinear, the score distribution should be studied to determine if there are selections of the regression curve with zero or near zero slope where scores do not reliably predict different levels of jobs performance."

Should these guidelines be enforced, the result is not likely to be fairer testing but a shift from what would become more costly and cumbersome procedures back to the simpler but far more bias-prone subjective oral interview.

The proliferation of government controls has, to no one's surprise, led to conflicts between controls and controllers. In some cases, the rules of a single agency work at cross purposes with one another. OSHA, for example, mandates back-up alarms on vehicles at construction sites. Yet simultaneously the agency requires employees to wear earplugs, to protect them against noise, that can make it extremely difficult to hear the alarms.

BUREAUS WORK AT CROSS PURPOSES

More serious and more frequent are the contradictions between the rulings of two or more government agencies where the regulated have little recourse. The simple task of washing children's pajamas in New York State exemplifies how two sets of laws can pit one worthy objective against another. In this case the conflict is between ecology and safety. Because of a ban on phosphates in detergents, the mother who launders her child's sleepwear in an ecologically sound way may risk washing away its fire-resistant properties.

In 1973, New York State banned the sale of detergents containing phosphates, in an effort to halt water pollution. Less than two months later, a federal regulation took effect requiring children's sleepwear to be flame-retardant. New York housewives now face a dilemma, because phosphates are the strongest protector of fire-retardancy. They hold soil and minerals in solution, preventing the formation of a mask on the fabric that would inactivate flame-resistancy. What does a conscientious mother do in a phosphate-banned area to avoid dressing her child in nightclothes that could burn up? Smuggle in the forbidden detergent? Commit an illegal act of laundry?

The controversy over restrooms furnishes another example of the conflict between different regulations. It also demonstrates that common sense is in short supply in the administration of governmental controls. The Labor Department, under the Occupational Safety and Health Act, has provided industry with detailed instructions concerning the size, shape, dimensions, and number of toilet seats it must maintain for its employees. For well-known biological reasons, it also requires that some type of lounge area be adjacent to women's restrooms.

However, the Equal Employment Opportunity Commission demands that male toilet and lounge facilities, although separate, must be equal to those provided to women. Hence, either equivalent lounges must be built adjacent to the men's toilets or the women's lounges must be dismantled, OSHA and state laws to the contrary notwithstanding. To those who insist that nature did not create men and women with identical physical characteristics and needs, we can only reply that regulations, like justice, must be blind.

The instances of waste and foolishness on the part of government regulators pale into insignificance when compared to the arbitrary power they can exert. To cite a member of the Consumer Product Safety Commission, "any time that consumer safety is threatened, we're going to go for the company's throat." That this statement is not merely an overblown metaphor can be seen by examining the case of Marlin Toy Products of Horicon, Wisconsin.

The firm manufactured primarily two products: Flutter Ball and Birdie Ball. These were plastic toys for children, identical except that one contained a butterfly and the other a bird. The toys originally contained plastic pellets that rattled. This led the Food and Drug Administration in 1972 to place the products on its "banned" list. It was feared that, if the toys cracked, the pellets could be swallowed by a child. In response to the ban, the company recalled the toys and redesigned them to eliminate the pellets. Thus they could be removed from the ban list.

PUT OUT OF BUSINESS BY MISTAKE

The newly-formed Consumer Product Safety Commission in 1973 assumed responsibility in this area. Because of an "editorial error," it put the Marlin products on its new ban list, although there was no longer any reason to ban them. Apparently the Commission incorporated an out-of-date FDA list. The error was called to the Commission's attention, but it replied that it was not about to recall 250,000 lists "just to take one or two toys off."

Marlin Toy Products was forced out of the toy business and had to lay off 75 percent of its employees. It is ironic to note that the Commission specializes in ordering companies to recall their products if any defective ones have been produced, but refuses its own product when there is a defect in every single one.

A more humorous instance of the CPSC's failure to abide by its own standards involves the toy safety buttons which it intended to distribute in the Fall of 1974 in an effort to make consumers more safety conscious. Only after producing 80,000 buttons did the Commission learn that its product was dangerous to children, because of the lead paint and the possibility of breaking off and swallowing pieces of the button. Unlike the procedures that it expects of the companies it regulates, the Commission presumably ran its tests after rather than before production. Fortunately, it realized its error prior to making public distribution of the buttons. Hence, "only" wastes of resources and tax dollars were involved.

In addition, there is good reason to be concerned over the amount of power enjoyed by federal regulatory agencies because they tend to employ a double-standard: one for private businesses, and one for one another. Illustratively, the Environmental Protection Agency mandated catalytic converters for future automobiles. But these converters, designed to lessen pollution, themselves produce harmful amounts of sulphuric acid mists which can irritate the lungs. The converters are now being re-studied—quietly. But just think of the governmental and public outrage which would have resulted if a private business firm had taken such action prior to submitting a detailed environmental impact statement.

Finally, governmental agencies do not seem hesitant to share their power—in ways which seem anything but judicious. Thus the responsibility for doing the basic research underlying new job safety and health regulations, which was assigned to the National Institute of Occupational Safety and Health (NIOSH) in the Department of Health, Education, and Welfare, was, in early 1974, delegated by NIOSH to the Amalgamated Clothing Workers Union. This means that an official federal study of safety and health hazards in the clothing industry is being conducted by a union employee and paid for by the union. In reporting this strange arrangement, OSHA noted that the union would help to obtain the cooperation of plant managers. But to anyone other than an OSHA functionary, it must be painful to contemplate the reaction of management to an investigation of its premises by its union in behalf of the government!

Because of the very substantial costs and other adverse side-effects that they give rise to, society should take a new and hard look at the existing array of government controls over business. A substantial effort should be made to eliminate those controls that generate excessive costs. Rather than blithely continuing to proliferate governmental controls over business, alternative means of achieving important national objectives should be explored and developed, solutions that expand rather than reduce the role of the market.

A good beginning might be based on the environmental regulations themselves. In general, the society is supposed to examine the impact on the environment of the various actions that it takes. Would it not be just as appropriate to require each environmental agency to assess the impacts of its actions on the society as a whole and particularly on the economy? Surely a cleaner environment is an important national objective. But it is not the only national objective, and certainly society has no stake in selecting the most expensive and most disruptive ways of achieving its environmental goals.

Unpopular as it may be, I urge the same balanced attitude for the new regulatory programs, including product safety, job health, equal employment, energy, et al. As in most things in life, the sensible questions are not matters of either/or, but rather of more or less and how. Only in this way can business both help attain the nation's social goals, while continuing to achieve the basic economic function of more efficient production and distribution of goods and services.

BICENTENNIAL BEAUTIFICATION IN PRINCE GEORGES COUNTY, MD.

Mr. BEALL. Mr. President, throughout this country, many community groups are working in countless different ways, each seeking to prepare a meaningful and lasting observance of our Nation's 200th anniversary. One of the fine examples I am aware of is currently being conducted in nearby Prince Georges County, Md., where, in cooperation with the county bicentennial commission, the Prince Georges Beautification Committee is sponsoring a "Beautification for the Bicentennial" awards contest. The objective of this contest will be to promote the beautification of Prince Georges County through the general landscaping activities of its citizens, businesses, institutions, and communities.

The community rightly feels that the Bicentennial offers us a fine chance for individuals and groups alike to combine an environmental awareness with an enduring patriotic act.

The city of New Carrollton was the first county municipality to enter the county Beautify for the Bicentennial contest, submitting plans for a bicentennial park to be constructed on a wasted and eroded lot.

The city of College Park was the second municipality to participate. Spearheaded by the Berwyn District Civic Association, in cooperation with the city, an old abandoned trolley line is to be transformed into a parklike area. Old telephone poles, railroad ties, and ornamental plants will be used to enhance this area, now only a collector of litter.

Through community efforts such as the ones exhibited by Prince Georges County, communities through the Nation are using Bicentennial as a catalyst to beautify and preserve their environment. Programs such as these will, indeed, provide an enduring benefit from the celebration of our country's 200th anniversary.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, one of the arguments that has been raised against the Genocide Convention is that genocide is not a proper subject of international concern but should instead be handled by States.

But mass murder affects everyone and every country, no matter where it takes place. Acts defined as being genocidal nearly always have the potential for disrupting international peace and security. In addition, the eradication of any national, ethnic, racial or religious group

deprives the world of that group's unique cultural heritage.

Very often when we consider the problem of genocide, it is framed in the context of Hitler's murder of 6 million Jews and other minority groups and it is not seen as a contemporary international problem. This is simply not true. As the tragic events in Biafra demonstrated several years ago, the specter of mass genocide has not yet been eliminated. The tragic conflicts in the Middle East and racial animosities in South Africa contain the terrifying prospects that this heinous crime may be repeated.

Granted, no single document will completely restrain the actions of a country that would contemplate such a monstrous act. Yet with the ratification of this treaty, the Senate of the United States can help to foster the development of an international climate which would not permit such actions. In many ways, Mr. President, this treaty will be effective in the same way that the Geneva Conventions for the Treatment of Prisoners of War have been—through moral force.

It is high time that the Senate do its best to give that moral force a chance to blossom. I urge my colleagues to join me in seeking prompt ratification of this treaty.

IMPROVING MANAGEMENT OF THE NATION'S FISCAL AFFAIRS

Mr. MOSS. Mr. President, I call to the attention of all Members the article by Steven S. Rosenfeld entitled "Budget Discipline and Defense," published in the Washington Post on September 19. The article comments on the September 17 column in the Washington Post, by Evans and Novak, regarding the new congressional budgetary process. But what is more, the Rosenfeld article also reflects an understanding of the objectives of the new congressional budget process and tells something about how it is being applied. I think the Rosenfeld article represents an astute analysis of the situation and some thoughtful actions which are worthy of consideration by all Members.

I would like to add that the budget act would have permitted us to put off until next year this concurrent resolution and the debate and the discipline which it implies. But because of the state of the economy, and with the concurrence of the Senate and the House leadership, the Budget Committees agreed to begin implementation this year.

The scorekeeping report which was referred to in the Evans-Novak article certainly has its limitations. But it not only supports the new budget process, it represents a vast improvement over the tools available to us in making budget decisions. In the past, a Member did not know what a particular project would do to overall spending. The committees approved programs without knowing if the revenues were available. This no longer needs to be the case. The new budget system can assist in moving toward greater fiscal responsibility by providing information which will enable us to know in advance the impacts of decisions with regard to total Federal spending, and even an indication of effect in the functional areas.

If we did not have a way to total up spending programs before we made commitments, in times like these, certainly we would be searching for one. After all, the people are looking to Congress for help in pulling the United States out of the worst recession since the thirties. Writing the Federal budget this year is certainly more than a sterile exercise in cost accounting. The new budget process will pinch if it is effective. It is supposed to.

That the committee's priorities differed with those of the President should come as no surprise, particularly now. This information was made clear during the Senate's consideration in April and May of the first concurrent resolution proposed by the Budget Committee. After all, the President's budget reflected a major increase in defense and a decrease in many other programs. Not only did it represent a cut in many areas, but it would not even have provided existing services in a number of programs and activities, for example, medicare, medicaid, and veterans. The committee moved about $4 billion from the President's budget for defense and international affairs to programs that would help people cope with the recession and the inflation. The committee felt more should be done to stimulate economic recovery and to reduce employment faster without a return to double-digit inflation.

The first concurrent resolution recommended by the Budget Committee and approved by the Senate in May reflected agreement by a substantial majority of the Budget Committee members. The committee was bipartisan. Like other products of the legislative process it reflected a lot of give and take. No member had his way. But despite that, in my view, it represented a significant improvement over the administration's budget.

The scorekeeping process which was referred to in the Evans-Novak article certainly has its limitations. However, it not only supports the new budget process, it represents a vast improvement over the tools available to us in making budgeting decisions. In the past, a member did not know what a particular project would do to overall spending. The committees approved programs without knowing if the revenues were available. This no longer needs to be the case. If we did not have a way to total up spending programs before we made commitments, in times like these, certainly we would be searching for one.

While the product is not as complete as it will be in future years, it does represent a giant step forward. The "pinch" of fiscal responsibility and realism is as frustrating to members of the Senate Budget Committee as it is to others. I believe members of the Budget Committee have taken their responsibilities seriously and performed with remarkable spirit of purpose and cooperation to make the new process work. Chairman MUSKIE and Senator BELLMON, the ranking minority member, are to be commended for their outstanding leadership and for their noteworthy contributions toward this end.

If we are to attain budgetary reform, and develop a more responsible method for managing the fiscal affairs of the Nation, we must make the best use of every tool available. The "scorekeeping report" is one such tool. Used properly, it can assist us in implementing the new budget process and improving fiscal responsibility by providing information to aid in making the tough calls and critical choices.

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

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

[From the Washington Post, Sept. 19, 1975]

BUDGET DISCIPLINE AND DEFENSE

(By Stephen S. Rosenfeld)

In declaring the other day that the new congressional budgetary process is "really a Senate shell game to fleece the Pentagon," the Evans and Novak column was doing a good deal more than relaying the Pentagon's jitters that its budget is under the knife.

The column was displaying an unhappy lack of understanding of a fledgling process whose improvement and support as time goes on are surely a good deal more important to the country than whether the Defense Department gets a few billion dollars more or less in any given year. Since there may be some people in the Pentagon or elsewhere who thought the column described the budget process correctly, it seems worthwhile to point out a few things. If I can understand it, so can you.

First, Congress' purpose last May in deciding to set targets to guide individual committees as they consider federal spending was not to fleece the Pentagon or the school lunch program, as supporters of *both* now profess to believe, but to gain more control over the budget. The thrust, in brief, was fiscal responsibility, a neutral if painful concept as far as programs go.

Once the size of the pie was set by Congress—at $367 billion—a brisk arugment was bound to break out over how the slices should be distributed. Not surprisingly in this city of tough issues, strongly held views and political people, the Democratic Congress wanted to spend something less on defense than did the Republican President, and it is so indicated in the conference report on the budget resolution passed last May. Both houses, of course, accepted that action.

What happened then is extremely interesting. The budget committees decided to take their charge seriously and actually to do what the reform mandated them to do: to keep congressional spending deliberations within the limits agreed on by . . . Congress.

The approach of Senate Budget Committee chairman Edmund Muskie (D-Maine) is easy enough to understand. He had an interest not only in establishing the viability and integrity of the new budgeting process but in using it to support the programs he favored—in this instance, reduced defense spending. One notes, however, that he failed to win the funding he sought for his pet domestic project, counter-cyclical revenue sharing.

The approach of ranking minority member Henry Bellmon (R-Okla.) deserves special note for he was in the position of having his interest in the budgetary process go in one direction and his interest in certain programs go in the other. I asked him how he handled that one and he said: "I defended the higher defense figure in debate but once it was decided, I went along. I don't count

myself as pro-defense or anti-defense, although I want the country to be strong. We can spend ourselves as poor in defense as in any other area, you know."

This, then, is the basis of the bipartisan pro-reform stand of the Senate Budget Committee in asking the Senate Appropriations Committee last month to bring its defense outlay figure down to the level that the Congress as a whole had suggested in the spring. A budget committee that did not make this request would not be worthy of the name.

The alternative, which Congress also provided for itself in its resolution last May, is to cut other programs in order to permit higher defense spending. The vehicle for this is a second resolution (binding, not advisory as was the first) due to be taken up later this fall.

To say that the Senate stand results from a "shell game" run by "liberal . . . anti-defense" Ed Muskie, or from the sly machinations of "soft-line" staffer Andrew Hamilton, is to miss quite completely the import of Congress' historic decision to try to impose upon itself the fiscal discipline so conspicuous by its absence in the past. "Muskie's tactics" constitute in fact the extremely promising, if tentative, new habit of legislative self-control.

As for the Evans and Novak charge that the budget committee's use of a certain $727 billion housing item involved "figure juggling . . . a clever anti-Pentagon operation" intended to conceal a damning rise in non-defense spending, a clear and conscientious footnote indicates precisely the opposite—not concealment of a rise but disclosure of a shortfall.

Where does that leave defense spending? It leaves it right where housing, school lunches and a host of other programs already are: competing with each other for slices of the budget pie. Frustrating as it may be for the Pentagon to have to make its case on substantive grounds, the Congress has given it no choice.

BASIS FOR AN EFFECTIVE FOREIGN POLICY: HOW THE AMERICAN PEOPLE SEE THEIR FUTURE

Mr. GOLDWATER. Mr. President, for the past several months I have from time to time prepared papers on different subjects which I feel are important to our country at this time and I have inserted them in the RECORD.

The one that I ask unanimous consent to have printed in the RECORD at this time is entitled, "Basis for an Effective Foreign Policy: How the American People See Their Future."

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

BASIS FOR AN EFFECTIVE FOREIGN POLICY: HOW THE AMERICAN PEOPLE SEE THEIR FUTURE

No great nation can have effective national policies either at home or abroad unless it can see itself triumphing over its future. Where a people envisage threats against their future which they cannot handle, or worse, which they cannot define, that people is on its way to insignificance. History tells us this much. For greatness, a people must have a justifiable optimism. They must feel that their children and their children's children will not merely survive but do so in dignity. They must feel a justifiable optimism that those difficulties that do exist can be managed if not mastered and the power to do this is within their own hands. A people with a future must sense that they can always call upon the talent that lies in every community to help them in their difficulties. A people with a future can never afford apathy, to feel that someone else and not they holds the reins with the power and authority to steer the chariot in any direction seen fit.

Tonight I would like to talk to you about our future here at home because unless we feel we have a future at home, we shall surely fail abroad. But I am not so much addressing this audience as I am the American people at large. I want to ask them a question:—Do you think you have a future as a citizen of the United States of America? Upon your answer to this question hangs your future.

I have a sense about our future. Our Third Century can be America's century of True Greatness. We face a century where civilization teeters between the apathy born of the mediocrities of socialism and the anarchy of reckless license. It is a world now nearly totally dedicated to the suppression of human freedom. It is a world for the most part where people are subordinated to omnipotent governments who, despite their omnipotence, are demonstrating a singular inability to meet even the most basic material needs of humanity, let alone to meet the spiritual essence basic to human dignity. An America remaining true to its fundamental principles shines like a beacon in such a world. We can offer an example, made more poignant by the absence of any rival, that will keep alive the noblest of human aspirations.

But before we can attain this lofty eminence, we have work to do. We have to put our own house in order here at home. The task before us here at home will not be easy. We have strayed so far ourselves along the path of centralized statism that our own liberties are in danger. We could at this stage in our history easily slide into the same situation that we find so many of our neighbors in this planet. But I believe we have not yet reached the point of no return. The latent strengths of the American people are still so great that once they realize the magnitude of the tasks needed to be done, they will respond with might and majesty. I would like to give you my version of those tasks needed to reform our internal situation. But before I do, let me briefly outline the dangers that face us at home, dangers which I have outlined before in other speeches.

I believe that our future is threatened and that the threats are many. At home, the enemy of our liberties, as these were designed to be, is government. By its spending on non-productive forces it has created a continuing inflation which on any prognostication must grow further. Inflation is a remorseless destroyer of all those institutions basic to freedom. By its hidden but nevertheless real distribution of income, government is slowly strangling the most productive elements in the Nation which, in addition to the psychic wounds this causes, accentuates inflation. The government has as well abrogated individual liberty by slowly but remorselessly assuming control of the individual destiny of each American citizen. As this home-based weakening of the national fibre continues and grows, abroad the threat to our survival, especially from the Soviet Union, increases. Our military strength relative to theirs, diminishes each year, thanks to a combination of a liberal Congress' machinations against defense but primarily due to that same liberal Congress' stimulation of inflation.

Again, thanks to a weak, fuzzy, vacillating, indecisive, unrealistic and an essentially liberal foreign policy over the past fifteen years, the world now gives less credence to the United States and its capabilities. At the same time in this same world enormous changes are occurring, a few which should give comfort to us, especially so as we either ignore or misunderstand them. Instead we offer, especially to the underdeveloped world, an image of insignificant and diminishing 'do goodism.' Yes, we face enormous difficulties. We face difficulties at home and abroad which historically kill civilizations. I believe we face this danger.

But the situation is far from lost. There is still time. We, as a people, still have the latent strength to do something about it. Our central issue is to reverse our slide to centralized statism, or if you like, state socialism. We must learn to rekindle our imagination because imagining is what the future is all about. Here then are some of the at-home tasks that we must be about. There are four of them. The first is the control of government which in turn means the control of politicians and their attendant bureaucrats. Here is where the core of the problem rests. It is Congress that is responsible for this drift but only the American people can remove state controls by controlling congress. If they will be about it, the task is not nearly as difficult as it first appears.

In a previous speech I once described the nature of government in unflattering terms. I said that historically the tendency of government everywhere is to spend monies they do not own profligately and thereby inflate the economy: Governments make promises they cannot keep: Governments have a high degree of operational inefficiency at all levels: And, governments are usually ignorant of the very people they are supposed to govern: Governments abuse power and they tend to drift into wars they cannot handle. I believe that if you ponder government in general and also ponder government in historical terms, you will see that my unflattering synopsis is right. As our Founding Fathers recognized two centuries ago, government is power and the freedom of a people is directly related to the degree that people limit those powers. Never was that maxim so pertinent as it is today.

Let me ask you a question—a major question, a personal question. "How much government do you as an individual feel you need?" Invariably almost, the answer of individuals to that question is, "Very little, with the conduct of foreign policy being the only exception." Then, why do we have so much of it and why does the degree of control which government exercises over your life and mine grow and grow? It is because you, the individual American, permit it and the remedy is in your hands. You must realize that the reason why most revolutions for freedom end by dying in totalitarisms is because the people who are the backbone of any revolution allow the demagogues and power seekers to assume control and from there abuse power. It is as simple as that. The people allow themselves to be convinced that this or that demagogue will assume the burden of the peoples' miseries and solve these but they fail to realize that all the demagogue truly seeks is power.

Each American, when he thinks about it, has no doubt in his own capacity for curbing his or her personal politico—but you must be about it. Let me give you my rules for judging politicians with a view to putting them on the leash. My formula is very simple and the first element of this, though simple, is a little philosophical. Does your politician put America first or his own political career? Will he, for example, destroy an important alliance, as was the case with Turkey, in order to pander to this or that ethnic vote in an effort to stay in power or does he put his nation's interest first? Does he seize upon this or that current dilemma and swamp you with promises as to what he will do about it regardless of the impact of his suggested action upon, say, the American economy or our status abroad. For example, during this recent recession many politicians declaimed about the economic plight of constituents and how "something

ought to be done," while they voted themselves a pay raise to be automatically adjusted in perpetuity at your expense. During the Vietnam war a man who was later to be a Presidential candidate likened the American system to Nazism—and I could go on indefinitely.

My next question regards judging politicians is, 'How much does he cost you?" Remember, you pay for government and all its actions—all of it. Politicians are notoriously proud of being responsible for legislation—rarely for the results and never for the cost. The time has come, however, when politicians need be required to tell you how much this legislation is going to cost you. We have recently become extremely investigatory as regards politicians' financial worth, who donates to their campaigns, how much and why. But I regard this kind of financial snooping insignificant relative to other financial data related to a politician's term in office. Namely, how much does he cost the taxpayer in terms of the legislation he sponsors? Politicians should be held accountable for this and then be judged along with the legislation as to whether it was all really worth it. Perhaps this kind of judgment by you is the very essence of the democratic process.

Another like issue regards evaluating politicians is, "Is he inflationary?" Does he advocate and enact programs which take from the productive sector and transfer the largesse to the nonproductive? Recently the oil companies were nominated by a majority of politicians as "scapegoat of the year." One of the resulting political acts, a punitive one in my opinion, was to remove the depletion allowance. I will guarantee to you that the removal of this incentive to oil production will not only place us further in the hands of foreign producers but will also insure that the price of oil goes up as the companies are forced to include what hitherto was a tax relief but is now a cost as part of their future pricing.

I have mentioned before that regulatory agencies of the Federal government cost you, the consumer, approximately One Hundred thirty-eight Billion Dollars per year. There is now a strong move to establish a consumer protection agency and there are already fifty-three pieces of consumer protection legislation in the mill. All of this, every regulatory agency and every piece of legislation, is a creation of Congress and is allegedly done for your protection. But, each one adds to the cost of most everything you buy. You must ask yourself, as you watch your dollar buying you less, is this alleged protection really worth it to me, or am I merely financing the careers of men who seek power over me even as that very power-seeking is demonstrably tempered by a high degree of stupidity.

If a politician does not pass these tests, he should be tossed out. But even this is not enough because historically the alternate choice offered has proven to be no better. I have often pondered on this lack of alternative, and my pondering was once called "A choice, not an echo." We must now ponder as to whether our ballots should not have a box marked, "No Candidate At This Time," along with a space for your "X." I believe such a move would have a salutary effect. In the 1972 election some fifty-eight percent of Americans did not vote at all. The process of the decline of political interest is already well advanced in America. The electors are voting by the indifference. Let us give them a choice to vote again in a way that sends a message to Congress and all persons who seek political office. As of now we cannot record the way we really think. Instead, those of us who still vote, or want to vote, are bludgeoned into supporting the lesser of two evils. But more and more of us are not voting at all. Whatever this is, it is not democracy or the proper way for a democracy to shape its political future. If we, the people, do not control the politicians, by default they will control us.

So much for politicians as we strive to limit government and its control over us in this Third Century as we endeavor to clean up America.

Let me now turn to another task and a very sensitive one at that, namely, education. For a democracy to survive, one critical element is that of resisting propaganda. By propaganda I mean the use of communication by those who control it to call things and actions by wrong names. In our Country today, in the world today, government is the greatest of all propagandists. The propaganda is ceaseless and is concerned with telling you what to do and how it is all for your own good. The propaganda comes in many forms; government regulations and directives, commissions and committees, campaigns, government interacting with the media on everything from "Smoky the Bear" to the Middle East crisis and it comes especially through political rhetoric.

We, the people, are the targets. We must be able to judge. I would commend education, therefore, to give priority to the study of the English language and especially its grammar and logic. We must regain our ability to see things as they are, to call things by their proper names and get the right term for everything. You have all read Orwell's "1984." Here language becomes so distorted into double think that "peace" means "war" and "slavery" means "freedom." Orwell was prophetic. The debasement of language is the precursor for the end of a civilization and for the rise of totalitarianism. The debasement of language precedes that time when the people no longer know what to believe or what to say, and turn over the responsibility for thinking to a master who soon becomes an oppressor. Confucius who lived nearly twenty-five hundred years ago put it well. The very first duty of a ruler who sought the common welfare, said Confucius, was the Rectification of Terms, that is, the insuring that everything is called by its proper name. Said Confucius "If language is incorrect, then what is said is not meant. If what is said is not meant, then what ought to be done, remains undone."

I cannot put it better. Yet, in Twentieth Century America, a Secretary of the Cabinet can use a term such as "advance downward adjustments," which is translatable as "a budget cut." And, there is other bureaucratic jargon which cannot be translated at all. A contemporary American writer, Saul Bellow, followed up on the Confucian maxim in words which all Americans will understand when in "Mr. Sammler's Other Planet" he had wise old Mr. Sammler say, "All map makers should put the Mississippi River in the same place. It may be boring and unoriginal but it lets one know where one is at."

In this age of specialization, education must find a central core around which to coalesce and help us to see things as they really are. In this age of dramatic social change, we must be able to judge. In this age of moral decay, we must have the capacity to determine right from wrong. In a democratic political system we must be able to make a choice. It is through the precise and accurate use of language that we think and take corrective action. Here is the educational challenge as I see it for this Third Century.

Let me give you one example of what I mean. I believe that we have created a nation of economic illiterates. Most of us have only the vaguest sense of how an economic system works. Thus, we have millions of Americans today who believe material well-being can be had for nothing where, in fact, for nothing, you get nothing. That is a precise use of language.

Whereas "something" for "nothing" is part of our "double think." Then there are millions who believe that enhanced productivity on the production lines means enhanced worker exploitation. Yet more millions believe that "profit" equals "evil" because they have been so told; whereas profit is a cost of doing business, a cost incidentally which even Communists have to figure if they want enterprises to maintain themselves. Double think is with us and the disease enervates us further. The propaganda grinds remorselessly on, made worse I believe because so much of it is unwitting propaganda. There is only one way to cut through it. Let us begin to use our magnificent language and its logic properly and here Mr. Educator is a challenge for you.

This brings me to a third task. I have talked about politicians and briefly about language. Yet another fundamental is our national ethic. By this I mean those values held in common by the American people. No nation can survive without these. In a recent speech I waxed a little philosophical upon this. I remarked that the most significant of our social ills could only be resolved when we, as a people, learn to develop and master self; practice compassion for others; and proffer forgiveness. Tonight I would like to be a little less philosophical and somewhat practical. In practical terms our practical common ethic ought to be the optimization of individual liberty but my question is, "Do you want it?"

We Americans rarely examine this premise. We, more or less, assume that there is a national desire for everyone to have personal freedom. But is this so? For example, several millions of Germans fled from the East to the West. A significant proportion of these refugees, however, have returned to the East. They found liberty too trying. They felt that to have the state look after everything from their toothache to their children's education is physically and psychically more acceptable than going it on their own. The fact that this was a form of benign slavery and a surrendering of all creative impulses mattered less than paying the price of liberty.

I believe it germane, therefore, to ask Americans, "How much do you desire liberty in your future?" Unless the answer to this is positive, I doubt if America has a future—as America. This is a further reason why the question must be asked and answered. I am certain the response will be for liberty but we must recognize liberty has a price. Liberty means facing most of the challenges of life by one's self, or with one's family, or with one's friends. Those who can truly help are really few in number because to help one must be personally close to one's fellow. Every dictator in history on the other hand has promised to take the burden on his broad shoulders and absolve you from the individual responsibility of handling your own life; to "help" you in a myriad ways. Now the centralized state, especially in its socialist form, promises the same thing.

It has an appeal. What the dictator and the modern state fail to point out, however, is that along with their taking over responsibility for you, there is also a prescription for how you must behave. But it does not stop there. It is not only one's behavior which is prescribed but also one's creativity. The victims become art, music, prose and writing, individual ingenuity whether it be for practical invention or new concepts of man's relationship to man, man's relationship to society, or man's relationship to his environment. Other victims are freedom of religion, of travel, of residence and work. And as resistance grows, the jails and concentration camps begin to fill. In fact, what dies are those very elements that give rise to human progress.

We see the onset of that dull grey level of mediocrity—a constancy common to all mature socialist societies. Most of us know this but it is useful to remind ourselves as we become enticed by the good intentions of the

state as it seeks to act on our behalf and for our own good. Thus I believe we have, as yet, another task for our Third Century, not merely to philosophize about liberty but to take some practical steps to ensure its enhancement. As one example, we need substantial revisions, if not dramatic changes, in our economic system. To stimulate your imagination I suggest to you that one objective in our Third Century might be to make every American a capitalist—a concept compatible with the thrust of our Founding Fathers.

We should strive for as widespread ownership as possible of the American means of productivity. For example, rather than deleting inheritance as a few of my Senate colleagues have proposed, I would like to see every American inherit a stake in our productivity as his birthright—and be encouraged politically and culturally to make that stake bigger. Many of you will say this is a romantic notion. But, is it? Is this not a worthy goal for our Third Century? Is it not attainable?

If we cut the publicized Federal Budget in half, let alone the hidden Federal expenses such as that of the regulatory agencies, we could endow every American child born in 1976 at birth with at least Seventy-five Hundred Dollars of stock in America's productivity. By the time that child was sixty years of age, at seven and one-half per cent compounded interest, the sum would have grown to Four Hundred Eighty Thousand Dollars. This would be one way to supplant the Social Security Administration. This is the kind of equality that I would embrace.

But I am not an economist and perhaps my notion is unworkable for other reasons. I do, however, challenge you to review the dreary nonsense the economists have served up (and which is usually wrong) and instead ask for the probing of some new ideas. Perhaps my idea is loose but it is an idea. Just as the Homestead Act of 1862 led to an enormous burst of agricultural and related productivity so now do we need its contemporary equivalent but this time geared to a technological society. Shall we call it "The Cybernation Act of 1976?" Do I ask too much from your imaginative minds?

Along with new ideas there must, however, be the affirmation of some old ones. For example, regardless of how productive a new system became or how much we automated our production methods, there would be a continuing need for hard work by the majority of us. Many people, however, would prefer not to work and that is the case right now. I believe, however, the right not to work to be an American's right. But for most of us, the work ethic would be critical to us physically and vital to our Nation materially as regards our continuing productivity. It should, as it was in the past, be part of our cultural mores to exalt work and to further reward those that accomplish as opposed to those who do not.

We also need to re-affirm the worthiness of thrift and saving. How outmoded those words seem today and how sad. But even the Chinese Communists have learned that it is only by thrift, saving and subsequent investment that any productive system can be maintained, let alone improved. But the state now says to we Americans, "Not so.—And if it is so, you do not have to do it.—We shall." It is a horrible lie. That productivity arises from thrift, saving and subsequent investment by people is a law of nature and again we must re-affirm our dedication to these principles. So, I challenge America for new ideas and concepts as we re-affirm old ones.

And now for my fourth and last proposal for our Third Century—for that century when the United States can achieve its true greatness. We are people of the Constitution. To sanctify new ideas, we need constitutional reforms—reforms which solidify the concepts in precise language. The primary objective of these reforms should have two complementary parts. The first is to optimize individual liberty and the second is like unto it—to limit government. Let me again offer a practical example of what I mean by limited government.

I have visited the British Crown Colony of Hong Kong many times. I now offer you a theory of modern government which has arisen through watching the practical realities of this remarkable Hong Kong venture. Here is a tiny sliver of land, not much larger than the area of my City of Phoenix. It is without any natural resources, inhabited by more than four million Chinese and governed by a tiny handful of British civil servants. The population of Hong Kong has risen from six hundred thousand to its present four million in less than twenty years. Yet through incredible energy the Colony boasts one of the highest standards of living in Asia and if the Communist agitators from across their borders would leave them alone, a remarkable stability.

The governing British are largely responsible for Hong Kong's success. They practice limited government. The government keeps the traffic regulated, the drains unblocked, the streets clean and the police honest. Beyond that, the dynamics of Hong Kong belong to the Chinese. Thus untrammelled, the Chinese went to work. They practised thrift, they saved, they invested and then they worked harder. They handled their social problems through family and community. This is why Hong Kong has succeeded despite having every disadvantage possible piled against it. And the key was "limited government." Now many of you will say, "But today's society is so complex that limited government, your Hong Kong syndrome, simply will not work."

I challenge this assumption. Please define these complications that hinder limited government. If you do, you will find that the very complexities said to hinder limited government have, mostly, been created by that very government. I think today's situation to be the opposite of that commonly perceived. It is my view that the modern state with its intense inter-communication can, if its people are responsible and capable, be the first state in history to function with limited government. For the first time I believe Adam Smith's laissez faire has a chance to work. Smith's laissez faire has never really been tried under favorable conditions. Eighteenth Century England was a mercantile empire where trade and foreign trade had to be co-joined by government. The basic reason for this was that there was little inter-communication between people except by those possessed of the sailing ships, that is the state.

Then in Nineteenth Century England came the full intensity of the change over from agriculture to intensive technology, a situation where laissez faire was probably not the best policy. Laissez faire, and a limited government has never been tried in a modern state. Instead it has been the state that has used modern systems to enhance its power when in my opinion these very same systems should have been available to the individual to enhance his individual creativeness. Again, I ask you to exercise your imaginative minds. This is still one great privilege we have in America. We are not strictured by an ideology and, as yet, the state is afraid to prevent us from thinking.

Much of what I have given you tonight is simplistic and undeveloped. I recognize this but offer you these thoughts not to give you a blueprint but to stimulate and challenge. It will take all our efforts to turn America around—to control the politicians; to stimulate new views in education; to stimulate new concepts in economics as we reaffirm some old ones and to solidify these new creative urges in America, especially the limitation of government by constitutional amendment. Much of what I have suggested tonight is complex but it is not nearly so complex as politicians and bureaucrats have made it appear. We can do it all and more—if we have a mind to. We have slipped badly towards centralized statism but not so far that we cannot pull ourselves out.

And what an exciting prospect this all is—for every American. I feel privileged to be able to stand here and challenge you about our future because I know we can do it—and more. Now is the time to "summon the blood" and move our Country on to greatness—to set an example that the world will stand in awe of and to lay the basis for a future American role in the world that by example will surely preserve freedom and dignity for all human beings. I know of no other way and through no other country whereby this can be done. Here is our future and here is the basis for effective foreign policy.

DEFENSE OF S. 1281—HOME MORTGAGE DISCLOSURE ACT

Mr. PROXMIRE. Mr. President, the Wall Street Journal of September 16 ran a very misleading editorial on S. 1281, the Home Mortgage Disclosure Act, which was recently passed by this body. The Journal is one of my favorite newspapers, but this time it has missed the mark.

The editorial on redlining rehashes the stale argument that requiring lenders to disclose where loans are being made is either a disguised form of credit allocation or else the first step toward credit allocation.

I have always been against any scheme of bureaucratic allocation of credit, in which some official in Washington would be required to approve this loan and reject that one. But nobody is proposing this—least of all in S. 1281.

The Home Mortgage Disclosure Act simply recognizes what the Wall Street Journal and many of the lenders have forgotten—that lending institutions are chartered by the Government and given certain privileges in order that they may serve an area. Service means loan service as well as deposit service. But the Journal apparently thinks that there is nothing wrong when an institution arbitrarily denies loans to its own community.

S. 1281 does not tell institutions where to make loans. But it does give the community the right to see where its money is going. The Journal scoffs at the "touching" notion that depositors care about whether local lenders are harming or helping the community. All depositors may not be as hardheaded as the Journal editorialist, who only cares that the bank makes the highest possible profit. In fact, many depositors do care about what the bank is doing to the community, and we have seen many citizens' groups launch "green lining" drives in which lenders who give a fair break to the community at the loan window are rewarded with the community's deposits. This is hardly credit allocation. More nearly, it is old-fashioned consumer power in the marketplace, which the Journal always seems to endorse in the abstract, but less so when vested interests are concerned.

Finally, the Journal repeats the tired cliche that the poor banks are being made scapegoats for other causes of ur-

ban decline. But why does there have to be only one cause? Certainly, there are multiple causes of urban decay; however, the arbitrary prejudice of some lenders against existing houses, older neighborhoods, minority applicants, or all three, is undoubtedly one such cause. The Senate Banking Committee has persuasive evidence that it is not only "declining" neighborhoods that are redlined. We find that lenders shy away from stable middle-class areas such as Oak Park, Ill., because the homes are several decades old, and because some minorities have moved in or may do so in the future.

S. 1281 is a marketplace alternative to credit allocation. It is discouraging to see the Wall Street Journal reject this sensible approach, when to defect on S. 1281 would only intensify pressures for a more rigid approach.

A BALANCED FEDERAL BUDGET

Mr. TALMADGE. Mr. President, I testified yesterday before the Subcommittee on Constitutional Amendments in support of S. 93, my proposed amendment to require a balanced Federal budget, except in cases of national emergency declared by Congress.

In my testimony I discuss the devastating effect of multibillion-dollar deficits year after year since the end of World War II, and I noted that deficit spending and rampant inflation have gained momentum in particular the past 10 years.

There appeared in yesterday's edition of the Wall Street Journal an excellent analytical article on the problem, which also traced the Federal budget record back to 1965. The article dramatically illustrates the enormous extent of deficit spending over the past 10 years, and its effect on consumer prices. This is a matter of utmost importance to the future of the United States. Creeping inflation of the kind we have experienced for the past decade cannot be tolerated without risking hyperinflation which results in economic catastrophe, foments social unrest, which has caused many a government to fall throughout the course of history.

In short, the line must be drawn. The only way I know to bring spending back under control is to impose a constitutional prohibition against Congress spending money we do not have.

At this point in time, we have an option to do something about deficit Federal spending and to stabilize the American economy. If we continue on our present course for many more years, we may no longer have a choice in the matter.

I bring the Wall Street Journal article to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

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

REVIEW OF CURRENT TRENDS IN BUSINESS AND FINANCE

The high cost of living. This seems to be the prime area of discontent at this stage of recession-and-recovery. It is the economic theme foremost in the minds of the citizenry up and down the land everywhere. And it is the worry of economists who fret that inflation isn't dying fast enough. So, since it is a subject invariably discussed with far more heat than understanding, maybe it is time for another effort at putting the high cost of living in perspective.

How did it get here? How high is it really in relation to American incomes? What are the chances of its going away?

There are many things that put up individual prices—Arabs vastly lifting the cost of oil, Russians buying grain. But the one primal force that puts all prices up in general inflation is the spending by the national government of more money than it takes in. This forces the banking system to pour out a flood of new money, new buying power, to cover the deficits. And it has become a habit in this country.

The table below traces the federal budget record back to 1965. "Surplus" means more money coming in than going out. "Deficit" denotes a bigger outgo. The figures cover fiscal years. Add six ciphers to each, making them represent billions of dollars.

Surpluses and Deficits

Year:	Surplus	Deficit
1965	------	$1,600
1966	------	3,800
1967	------	8,700
1968	------	25,200
1969	$3,200	------
1970	------	2,800
1971	------	23,000
1972	------	23,200
1973	------	14,300
1974	------	3,500
1975	------	44,200
1976	------	59,900

The deficits of half a dozen years alone in the above table add up to nearly $190 billion. It's a lot of money. The nation's entire gross national product wasn't much more than that as recently as just after World War II.

Pumping excessive buying power into the economy spreads a lot of happiness for awhile of course. As it filters out through the country, it puts more money into the pockets of the people. It fattens paychecks, inflates bank accounts. And the record shows clearly how vastly this has occurred.

The table below traces Commerce Department figures on per-capita disposable personal income in this country. The per-capita factor adjusts for population growth and the "disposable" means after taxes.

Consumer Spending Power

Year:	Per-Cap. Disp. Pers. Income
1965	$2,436
1966	2,604
1967	2,749
1968	2,945
1969	3,130
1970	3,376
1971	3,605
1972	3,843
1973	4,295
1974	4,623
1975 (2nd Q annual rate)	5,055

What the table adds up to:

Per-Cap Disp. Income: Up 107 percent, or more than doubled in a decade.

A very large factor in pushing up personal income in recent years has been the rapid growth of multiple paychecks feeding family coffers. This shows up in high employment of both adult women and teenagers of both sexes.

There are 10 million more adult women employed today than as recently as 1960—a jump of more than 50 percent. There are three million more teenagers at work—a gain of over 70 percent. These gains compare with a gain of only about 15 percent for adult men.

And, finally, such "transfer payments" as Social Security, welfare, and unemployment benefits now add nearly $180 billion yearly, over four times the 1965 total, to aggregate personal.

This, then, is the income side of the inflation coin, the buying power side, the side you never hear much about. Now how does it compare with the climb in prices?

Here is the record on both wholesale and consumer prices ("cost of living") as seen in Labor Department indices (1967=100).

The Price Climb Record

Year:	Wholesale Prices	Consumer Prices
1965	96.6	94.5
1966	99.8	97.2
1967	100.0	100.0
1968	102.5	104.2
1969	106.5	109.8
1970	110.4	116.3
1971	113.9	121.3
1972	119.1	125.3
1973	134.7	133.1
1974	160.1	147.7
1975 (Aug.)	176.7	162.8

The decade's record here is:
Wholesale Prices: Up 83%.
Consumer Prices: Up 72%.

The comparison between incomes and prices, of course, does not pretend to show that everybody's income has outrun the cost of living in the past decade. Not all individual incomes have doubled. Some have gained painfully little. The working man whose wife does not bring home a paycheck obviously has it rougher than the one who heads a two-paycheck family.

Millions of retired people with incomes remaining practically unchanged have suffered terribly in the vast upsurge in the cost of almost everything.

Still, unless the figures are all wrong, there is a tremendous amount of money sloshing around out there in the aggregate consumer pocket. In view of its magnitude, which goes almost unnoted in all inflation talk, present prices are hardly surprising. It may be wondered that they are not higher.

The outlook: Anybody who expects the cost of living to come down is just dreaming. The best that can be hoped for is a slowdown in the rise. And that's just a hope.

—JOHN O'RILEY.

1975 STATEMENT OF POLICY AND RESOLUTIONS—AIR FORCE ASSOCIATION

Mr. GOLDWATER. Mr. President, the Air Force Association held its annual meeting in Washington last week and during the course of their many discussions on subjects of vital interest to the defense of our country and our position in the world, a number of resolutions were drawn up and formally approved by the members assembled. The Air Force Association is only one of a number of groups made up of men and women who have served their Nation in peace and in war in the various branches of our services and I am sure that members of these other groups at their gatherings will be taking similar positions on what this country is doing, should not be doing, or should be doing better.

I ask unanimous consent that these decisions reached by the Air Force Association be printed in the RECORD.

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

1975 STATEMENT OF POLICY, AIR FORCE ASSOCIATION

Détente, according to the Administration, means moderate and restrained behavior by both superpowers; to quote the President, détente is "not a license to fish in troubled waters."

The Soviet Union obviously is using a different dictionary.

The three years since SALT I provide no evidence that the Soviets have restrained either their arms buildup or their political warfare abroad in most critical areas. They are eagerly fishing, and often in waters that they themselves have previously troubled.

In place of the Kremlin's quid pro quo from SALT and the Vladivostok accord, we find a virtual quid pro zero—in favor of the USSR. Soviet military power, already vast, is being force-fed at a rate far greater than concerns for self-defense or even deterrence can possibly warrant. In the most crucial area of strategic capability, Soviet power is surging toward broad and decisive superiority through rapid deployment of new and increasingly destructive weapons, underwritten by a military research and development program at a scale without precedent in history. Indeed, the Kremlin has exploited détente as a mask for accelerating its military Research and Development (R&D) effort beyond the growth rates that preceded détente.

It is ironic that the Soviets have been able to accomplish this without outright violations of the letter of SALT terms.

Arms negotiations create their own irreversible momentum.

In the case of SALT I, this momentum created ambiguities permitting the Soviet Union to increase by three or four times the throw weight of a single category of missiles—the SS–11 and its replacement, the SS–19. This ambiguity alone will enable the USSR to add to its strategic inventory an aggregate throw weight several times that of all U.S. ICBMs combined.

Additionally, the Soviets are working to utilize reloading techniques as a way to increase the number of their ICBMs beyond permitted, verifiable limits. On the basis of some current assessments, as many as 600 new missiles—SS–17s and SS–18s—may become available to the USSR through reloading, over and above the limits set by SALT.

Meanwhile, the Soviets are attempting to conceal, far beyond any reasonable limits, their work on the new, solid-fueled SSX–16 ICBM that can be deployed in fixed silos as well as in a ground-mobile mode.

Because of these and other Soviet actions, the 140,000 members of the Air Force Association urge the Administration to demand the elimination of such ambiguities as a nonnegotiable prerequisite of any current and future arms limitation negotiations.

We oppose any treaties or accords with the USSR designed primarily to sustain détente as an end in itself and not supported by demonstrated Soviet willingness to respond in kind to U.S. concessions. We believe that both negotiating parties must agree to clear and legally binding and enforceable commitments to essential equivalence if any degree of military stability is to be obtained through mutual arms limitation. This principle applies to the pending Nuclear Threshold Treaty, as well as to SALT.

The members of this Association support the goal of military stability through mutual arms limitations, that meet the principle of essential equivalence, while recognizing the dissimilar characteristics of the two parties. Soviet leaders have stated, over and over again, that they will exploit every opportunity afforded under arms limitations agreements and there is ample evidence that they are pursuing that intention.

The United States, in pursuit of further reductions in arms levels and expenditures, has at the same time exhibited restraint with the hope that the Soviets would do likewise. Such has not been the case—in fact, precisely the opposite has occurred.

In this context, the members of this Association see specific and crucial requirements arising out of the current and projected state of U.S. defense capabilities.

The President should request and the Congress approve a supplemental budget authorization, to become effective immediately should the SALT talks break down, an authorization large enough to make up for the destabilizing Soviet lead in strategic arms development and deployment.

But if SALT achieves mutually acceptable arms limits, the Department of Defense must undertake all essential steps to assure that qualitative parity within SALT ceilings is maintained over the long term.

In either case, the modest annual real growth rates proposed in the Defense Department's current five-year budget request must be met, or increased as necessary to maintain essential equivalency.

At the same time, the Air Force Association earnestly urges the Congress to reject proposed legislation that would subject virtually all Defense Department research and development projects to veto by the Arms Control and Disarmament Agency. To enact such a law would risk further damage to valid national security considerations in a euphoric, uncritical and imprudent pursuit of détente.

We deem it vital for the United States to initiate without further delay full engineering development of a prototype of the large throw-weight MX ICBM.

Because of the long lead time for MX, ten years from prototype initiation to full-scale production and deployment, commitments to improve the existing ICBM force must be made now. Higher yield warheads and improved guidance systems must be deployed, not merely developed. There is an overriding requirement to keep the Minuteman production line open, thus retaining the option to deploy an advanced variant of Minuteman III, up to the levels of the Vladivostok Understandings. Additional Minuteman IIIs and advanced variants carrying more than three warheads represent by far the most cost-effective and rapid means for upgrading U.S. strategic deterrence. Advanced technology makes it possible to increase the number of warheads significantly without reducing the ability to destroy hardened military targets.

We urge these actions in light of recent developments in the Soviet Union.

Three new ICBMs are now in the Soviet operational inventory. Each has greater throw weight and can carry more warheads than Minuteman III.

Soviet missile accuracy has improved to the point where there is evidence of terminally guided reentry vehicles.

The new Soviet SS–18 missile recently flew with a new, smaller warhead in the sub-megaton range, indicating improved accuracy which would permit using smaller warheads against hardened targets. This advantage translates into even higher numbers of MIRV's per missile and is compounded by the intolerable throw-weight advantage the Soviets now enjoy.

Countervailing the Soviet lead in missile numbers and throw weight is USAF's strategic bomber force. The production and deployment of the Air Force's new strategic bomber, the B–1, therefore becomes more urgent than ever before. Here, too, the USSR is busily altering the status quo. Some fifty Backfires, the most modern operational heavy bombers anywhere in the world, are currently in the Soviet inventory. The monthly production rate of Backfire is being increased from two to five. We endorse the Defense Department's recognition of the need to modernize and improve U.S. air defenses, particularly as the Backfire threat increases, and we believe that the time to begin is now.

This Association's deep concern with U.S. strategic deterrence as the principal guarantor of our national security and survival in no way diminishes our concern for the U.S. general purpose forces. The world is a less stable place under strategic parity than it was during the era of U.S. superiority; the offset must come from the conventional capabilities of the U.S. and its allies.

The first requirement here is to increase USAF's tactical combat forces to compensate for the Soviet and Warsaw Pact forces' numerical and technical superiority in armor and other ground forces. The minimum requirement is for twenty-six active and ten Reserve and Guard tactical fighter wings. The continued effectiveness of these forces will depend on the speedy introduction into service of the new tactical systems currently in development or planned.

A principal deficiency lies in U.S. defenses against chemical and biological warfare. This must be corrected. The number of Soviet troops trained in such warfare is twelve to fifteen times greater than that of this nation. Soviet tanks and armored vehicles incorporate sophisticated protection against chemical and biological weapons and there is evidence that the Soviet short-range surface-to-surface missile forces are equipped to fire chemical and biological warheads.

The ability to deliver rapidly U.S. tactical airpower and ground forces to conflict areas abroad is crucial as the global presence of U.S. forces is reduced and as NATO's southern flank is in jeopardy. Existing airlift capabilities can and should be greatly enhanced, to include adapting a wide body jet to an advanced tanker cargo aircraft, developing an advanced medium STOL tactical airlifter, expanding and modifying the Civil Reserve Air Fleet, and modifying both the C–5 and C–141.

At the heart of U.S. national security must be the sustained will of 214 million Americans to act as the champions of freedom and peace in the world. Last year this Association called for a public debate of the issues of strategic balance. That need is even greater now and so is the requirement for candor about the threat that is facing us. We support the Administration's pledge that "peace is crucial but freedom must come first." We look now for specific evidence that the pledge will be fulfilled.

NEW POLICY RESOLUTIONS, 1975—AIR FORCE ASSOCIATION

AFA POLICY RESOLUTION NO. 1: ICBM FORCE

Whereas, the SALT I Interim agreement and the 1974 Vladivostok accord in effect limit the United States to fewer silo-based ICBMs with less throw weight than the Soviet Union; and

Whereas, the Soviet interpretation and implementation of SALT places no significant constraints on the size and qualitative characteristics of its ICBMs; and

Whereas, the Soviet Union is engaged in an unprecedented and massive research and development program to improve its ICBM force; and

Whereas, the USSR has already tested four new ICBMs since SALT I and deployed three of them in quantity; and

Whereas, three of the new Soviet ICBMs have been tested with multiple independently targetable reentry vehicles (MIRVs) exhibiting improved accuracy; and

Whereas, it is paramount that the fixed silo-based ICBMs permitted the United States by treaty be made highly survivable and effective as a key element of flexible deterrence;

Now, therefore, be it *resolved* that the Air Force Association urges the Department of Defense, the Administration, and the Congress to implement Air Force programs to equip the land-based ICBM force with advanced guidance systems and higher yield warheads, to retain the option of deploying additional numbers of Minuteman III missiles by keeping the production line open, to

authorize development and deployment of a variant of Minuteman III with more than three MIRV warheads, and to initiate development of the MX missile, a large follow-on ICBM with the option of flexible basing to replace Minuteman in the next decade.

AFA POLICY RESOLUTION NO. 2: AIRLIFT AND REFUELING

Whereas, the need for adequate, immediately available tactical and strategic airlift, supported by aerial refueling, is mounting because of geopolitical developments and declining numbers of foreign bases available to the US; and

Whereas, one of the most urgent requirements of the US general purpose forces is an increase in total strategic airlift capacity to permit the rapid deployment of ground troop reinforcements to Europe during the initial phase of a potential NATO-Warsaw Pact conflict; and

Whereas, under many conditions the absence of "stepping stone" bases will require that the tanker force supporting the deployment of airlift or tactical air units operate from the ZI; and

Whereas, the Air Force's airlift enhancement program calls for a number of vital actions—to improve the Civil Reserve Air Fleet program to provide aerial refueling and capabilities for the C–141 and C–5, to modify the C–141 and C–5, and to develop a wide-body Advanced Tanker/Cargo Aircraft, among others; and

Whereas, the Air Force has developed competitive prototypes of an Advanced Medium STOL Transport (AMST) to demonstrate new tactical airlift capabilities; and

Whereas, AMST's ability to land outsize military equipment in short, unprepared landing zones will improve the Army's combat effectiveness; and

Whereas, AMST can augment significantly the total strategic airlift capability;

Now, therefore, be it *resolved* that the Air Force Association urges the Congress to authorize and appropriate the funds required to assure that sufficient modern tactical and strategic airlift and refueling capability will be available to meet future military contingencies.

AFA POLICY RESOLUTION NO. 3: TURKISH ARMS EMBARGO

Whereas, the US arms embargo against Turkey has jeopardized the crucial southern flank of NATO, thereby weakening the West's conventional deterrent and increasing the risk of global nuclear war; and

Whereas, US military and intelligence bases in Turkey are irreplaceable and essential for the verification of present and future arms limitation and reduction accords, are crucial to the US early warning system, and are prerequisites for timely assessments of Soviet advances in strategic and tactical weaponry; and

Whereas, Turkey's military strength, in itself, is a major and potentially decisive element of NATO power;

Now, therefore, be it *Resolved* that the Air Force Association urges the Congress to reverse its stand on the arms embargo against Turkey in the interests of world security and peace.

AFA POLICY RESOLUTION NO. 4: INTELLIGENCE

Whereas, the speed and destructiveness of modern nuclear weapons, the intrinsic ability of the Soviet closed system to achieve military and technological surprise, and the enforcement of the terms of SALT require that US intelligence capabilities be second to none; and

Whereas, errors in judgment by a few individuals have resulted in the denigration of the many dedicated professionals who serve in the intelligence operations of the Armed Forces and other national intelligence agencies; and

Whereas, it is essential that intelligence, along with other national security functions, be subject to overview, control, and discipline by the Congress; and

Whereas, recent public Congressional hearings involving US intelligence activities have resulted in detailed disclosures of specific operations and techniques; and

Whereas, such public disclosures of vital secrets to our adversaries abroad are highly disturbing to our allies, compromise our intelligence sources, and have a demoralizing effect on the men and women who serve US intelligence;

Now, therefore, be it *Resolved* that the Air Force Association urges the Congress to exercise full control of its constitutional authority over the U.S. intelligence community but through appropriate and lawful procedures and in a manner that precludes the revelation of vital secrets to foreign powers; and

Be it further *Resolved* that the Air Force Association recommends that the Congress in its review of U.S. intelligence functions preserve the stature and capabilities of the military intelligence agencies to assure complete and balanced intelligence assessments.

AFA POLICY RESOLUTION NO. 5: HELSINKI CONFERENCE

Whereas, the United States and thirty-four other nations, at the European Security Conference in August of this year at Helsinki, Finland, sanctioned the Soviet military conquest of Eastern Europe and the subjugation of some 150 million people, by accepting the "inviolability" of the currently existing frontiers; and

Whereas, the Helsinki Conference's Declaration of Principles contains the signatories' pledge of nonintervention and the commitment to sovereign equality and territorial integrity but fails to provide for renunciation of the Soviet Union's Brezhnev Doctrine; and

Whereas, the Brezhnev Doctrine, first invoked at the time of the Czechoslovakian uprising in 1968, asserts the right of the Soviet Union to invade by military force the sovereign territory of its Warsaw Pact allies to assure Soviet hegemony over all satellite countries; and

Whereas, the Helsinki Conference perpetuates the myth of détente by trading off real concessions by the Free World for ambiguous promises by the Soviet Union; and

Whereas, Soviet interference in the internal affairs of Portugal, a key member of NATO, increased immediately upon the signing of the Helsinki Declaration;

Now, therefore, be it *Resolved* that the Air Force Association urges the Administration to insist on unambiguous Soviet adherence to the principles set forth by the Helsinki Declaration, including formal renunciation of the Brezhnev Doctrine; and

Be it further *Resolved* that if the Soviet Union fails to take the above actions, the United States could cancel the concessions it made at the Helsinki Conference.

AFA POLICY RESOLUTION NO. 6: ELECTRONIC WARFARE—EF–111A

Whereas, future tactical capabilities of the Air Force can be significantly improved through an advanced tactical electronic warfare system, the EF–111A, to provide electronic warfare jamming support to tactical air forces; and

Whereas, the use of support electronic countermeasures has already proved essential to the execution of tactical air missions and has saved lives and aircraft in recent tactical operations; and

Whereas, future improvements in enemy command and control nets will require improved jamming capabilities to protect tactical air forces from high losses resulting from early detection and targeting; and

Whereas, future self-protection systems for tactical aircraft are not expected to provide sufficient protection from increasing threats without the support of the EF–111A Tactical Support Jamming System;

Now, therefore, be it *Resolved* that the Air Force Association urges the Congress and the Department of Defense to support fully the expeditious development and procurement of the EF–111A tactical jamming system, through appropriate modification of existing F–111A aircraft inventories.

AFA POLICY RESOLUTION NO. 7: TACTICAL TRAINING RANGES

Whereas, continuing advances in enemy doctrine, in concepts of employment, and in the technology base lead to a steep increase in the sophistication and complexity of threats to U.S. tactical air warfare capabilities; and

Whereas, realistic tactical ranges, duplicating these threats, provide a vital arena in which to develop tactics and conduct training to counter current and future threats; and

Whereas, the diverse requirements of modern aerial warfare dictate the need for realistic ranges to train tactical aircrews, to conduct test and evaluation of new weapon systems in a combat-like environment, and to assure that maximum training benefits are realized from each training sortie; and

Whereas, there is a paramount need for improved equipment as well as additional land and air space in order to develop adequate ranges;

Now, therefore, be it *Resolved* that the Air Force Association urges the Congress and the Department of Defense to support fully the Air Force's tactical range improvement and development programs.

Be it further *Resolved* that the Air Force Association urges the Department of Defense and the Air Force to intensify, and accelerate educational efforts directed at the civil aviation community to explain this vital national security requirement.

AFA POLICY RESOLUTION NO. 8: WILD WEASEL AND HARM

Whereas, the Soviet Union has developed large numbers of radar-directed antiaircraft artillery and SAM systems that pose formidable threats to US tactical air forces; and

Whereas, current Wild Weasel forces that combat these threats are aging, thereby creating a requirement for an improved system based on the latest state of the electronic art; and

Whereas, there is an equally pressing need for an improved high-speed antiradiation missile (HARM) to supplement existing missiles of this type;

Now, therefore, be it *Resolved* that the Air Force Association urges the Congress and the Department of Defense to support the required procurement of advanced F–4G Wild Weasel systems and the continued development and procurement in sufficient numbers of the HARM high-speed antiradiation missile to enable the Air Force to effectively counter the radar threat.

AFA POLICY RESOLUTION NO. 9: HELICOPTERS

Whereas, the vertical takeoff and landing capability of the Air Force has made possible such varied operations as more than 2,600 combat rescues in Southeast Asia, the raid on the Son Tay prison camp outside Hanoi, the successful evacuation of Cambodia and South Vietnam, and on-base aircrash rescue; and

Whereas, the Air Force helicopter inventory has decreased to the point where now there remains less than half of the air rescue helicopters that the stated requirement calls for, with no new procurement authorized;

Now, therefore, be it *Resolved* that the Air Force Association urges the Administration and the Congress to support the Air Force in maintaining a strong air rescue helicopter force through replacement of those aircraft lost from the force structure through attrition.

AFA POLICY RESOLUTION NO. 10: LOW-COST TRAINER

Whereas, the energy crisis and budget constraints resulted in a sharp reduction in Air Force flying hours and flight training, thus leading to new approaches in pilot training; and

Whereas, the new training procedures are based on a judicious mix of simulator training, flight training in a low-cost trainer, and limited operation of actual mission aircraft; and

Whereas, the proficiency of USAF flight crews requires an irreducible minimum of actual flying to provide experience under stress, such as night and weather flying; and

Whereas, in the present austere environment adequate flight training is only possible with a low-cost trainer of high fuel economy;

Now, therefore, be it *Resolved* that the Air Force Association urges the Department of Defense to support the development and procurement of a new flight trainer of adequate performance and low acquisition and operating costs to assure the continued high proficiency of USAF flight crews.

SENATOR CHURCH

Mr. BIDEN. Mr. President, on September 21—last Sunday—Parade magazine carried a cover story on our colleague, Senator FRANK CHURCH. This article was given nationwide circulation.

I found the article an accurate portrait of a man who can only be described as a leader, and I commend it to any of my colleagues who missed it.

To that end, Mr. President, I ask unanimous consent that it be printed in the RECORD.

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

SENATOR FRANK CHURCH

Sen. Frank Church, Democrat of Idaho, would like to be elected President of the United States next year. So, too, would a dozen other Democrats, declared and undeclared.

At 51, however, Church seems more qualified than most. He is honest, intelligent, semi-charismatic, personable, but most important, experienced.

A boy wonder of sorts, he was elected to the U.S. Senate in 1956, at age 32, the youngest Senator in the 85th Congress and then the fifth youngest in the history of the Senate.

Frank Church is into his fourth term, the first Democratic Senator from Idaho to be so honored, and he ranks 13th in seniority, which means he has power, prestige and precedence.

Soon he will become a nationwide TV celebrity as chairman of the U.S. Senate Select Committee on Intelligence. Intermittently the committee, with its revelations of questionable and illegal behavior by the CIA and FBI, has made headlines and prime time. But open TV hearings à la Watergate are scheduled to get underway any day now if they haven't already. And possibly TV will do for Frank Church what it did for Sen. Sam Ervin of North Carolina. It will boom him into a household name, a political celebrity, a widely known personality.

UNAFFORDABLE EXPOSURE

In an overcrowded field of Democratic Presidential candidates, the TV exposure, which under ordinary circumstances he would never be able to afford, will undoubtedly set Church aside from the pack. It may very well launch the "Church-for-President" campaign.

"I've thought about the Presidency," Church frankly admits. "Which one of us in the Senate has not? But I'm now engaged in an investigation that I can't mix with Presidential politics. So I've deferred any serious consideration of running for the Presidency until that investigation is completed."

When will Church and his committee finish running the members of the intelligence community through their filter?

"November may bring us to the close of public hearings," he estimates. "And possibly by February we will complete the reports and recommendations."

"And by then," adds his wife, Bethine, "it may be too late."

The tall, boyish-looking, full-cheeked Senator nods his black-haired head. "It depends on a lot of variables," he explains. "I think by February we might have a baker's dozen of announced Presidential candidates. If none of them has developed sufficient momentum to separate themselves from the pack, it might still be possible for a latecomer like myself to enter the race.

"Much depends on financing," he points out. "A late entrant would be handicapped in getting together the necessary funds in a very short time. Clearly he couldn't enter the first primary [New Hampshire in February]. He'd have to organize a campaign and collect money for the later primaries."

Church suggests that if he decides to run, "I would have to select a few of the later primaries in the East and the West, which would be fairly representational so that if I did well in those, I could then come to the convention, albeit with many fewer votes, but with a case to be made that I entered representational primaries late in the campaign and demonstrated a strong national potential."

POLITICAL FAMILY

Senator Church's wife is one of the most politically knowledgeable of all Congressional wives. Her father, the late Federal Judge Chase A. Clark, was Governor of Idaho; her uncle was also a governor; her cousin, the late Worth Clark, served as a U.S. Senator. Says Mrs. Church: "Frank is not thinking about the Presidency, he is concentrating on the intelligence investigation and his other committee hearings. Ever since his bout with cancer, he's become pretty much of a fatalist. When he was 24 the doctors gave him about six months to live."

Frank Forrester Church was born in Boise, Idaho, on July 25th, 1924, into the conservative Republican family of Frank and Laura Church, who owned a sporting goods store.

When young Church was in Boise High School he won first prize in the American Legion's National Americanism Oratorical Contest. It won him a $4000 scholarship to any college of his choice.

In 1942 he chose Stanford University at Palo Alto, Cal., then after one term quit at 18 to enlist as a private in the U.S. Army. He was sent as an officer candidate to Ft. Benning and later shipped overseas to the CBI (China-Burma-India) theater as a military intelligence officer. After the war Church returned to Stanford where he made Phi Beta Kappa, earned his B.A., then married Jean Bethine Clark, and decided to enter Harvard Law School.

MEDICAL DISORDER

At Harvard he came down with excruciating back pains. "At first," says his wife, "we thought it was the climate or that Frank was studying too hard. The pain kept getting worse, and the doctors couldn't diagnose it. We decided to go back to Stanford where it was warmer, and Frank could study at Stanford Law."

But life in Palo Alto did nothing to relieve the back pain. Finally the doctors found the cause: cancer of the testicles and abdomen. They operated and discovered that the cancer had spread to the lymph nodes. They pronounced it incurable, predicting death within six months.

"They were wrong," Church says happily. "There was a Dr. Wood in San Francisco. At that time he was one of the leading authorities in cancer at the Stanford Medical School. When he looked at the pathology report, the biopsy analysis, he said that what I had was a very rare type of cancer, frequently confused with incurable malignancy, but that in fact it was a type of cancer which was highly responsive to X-ray treatment.

DR. WOOD'S TREATMENT

"Dr. Wood insisted that I be given the full course of X-ray treatment, and in the end that saved my life."

Says Mrs. Church: "It was truly a miracle. There he was 6 feet tall and down to a little more than 80 pounds. The X-rays burned into him, turning him increasingly nauseous. It was almost unbearable. I read to him aloud during the treatments trying to divert his mind, trying to beat the nausea, trying for him to hold on. He did, yes, he did, and he beat it."

Trim, athletic, in good health, Church says, "Whenever I go out to Walter Reed or the National Institutes of Health for my yearly physical, they tell me I'm lucky to be alive. I tell them I'm lucky to have had Bethine. It was her determination which pulled me through."

Like most men who have cheated death, Frank Church believes passionately in the nowness of life. "Right now," he declares, "what I want most is to do a creditable job in this present intelligence investigation that I'm heading, because I think that's perhaps the most important service I can render in my whole career in the Senate."

CIA MURDER PLOTS

Of all the sins and crimes the CIA has been accused of, Church says, "The most shocking is that the agency was involved in murder plots and murder attempts directed against foreign governments with which we were not at war. These particular attempts were directed against small countries whose leaders could never have been a real threat to the United States.

"I think that when the committee makes its report, it will be clear that in these cases there was no possible justification, no urgent national interest that had to be protected.

"We must make certain in the future that assassination never again becomes an instrument of American foreign policy."

Church believes that it was a suggested instrument during four administrations—Eisenhower's, Kennedy's, Johnson's, and Nixon's—and that "there is evidence which tends to show that the CIA may have been behaving like a rogue elephant on a rampage.

"I am not in favor of abolishing the agency," he states, "but it needs to be restructured. The laws governing the agency need to be more strictly drawn. The control of the agency needs to be tightened. One thing that is clear from the present investigation is that in each of the administrations, from Kennedy's through Nixon's, there has been such looseness of control over the agency that it's always been possible for the agency itself to construe its authority more broadly than those concerned have intended.

"I think that in the future we will have to be more careful that the President, through his policy makers, has stricter control over the agency. Also it may be possible

to establish a joint committee along the lines of the Joint Committee on Atomic Energy, as long as we make certain that the committee is fully empowered to deal with intelligence agencies.

"By that I mean it must have the authority to determine the money they should have. It must have full authority to know at all times what is happening, to know the full scope of covert actions. It must be advised in advance or concurrently of decisions that are made in this field so that the committee can make sure that the agency is living within the law."

Church is unsure whether the CIA should or should not partake in covert operations. "As regards covert activities," he says, "I think the agency is probably most proud of the support it gave to the constituting of democratic governments in Western Europe in the period following World War II. Now that kind of covert activity at least conforms to our traditional values. I'm not speaking of the methods that are used. I'm speaking of the objectives. The worst example of covert CIA activity that I can think of was our intervention in Chile where we undertook to depose a government that had been lawfully elected by the Chileans.

"What we've come to call covert operations has relatively little to do with collecting intelligence. They are clandestine efforts to maneuver things, to control events abroad.

"If we were to put the CIA back exclusively in the business of operating an intelligence agency and confine it to gathering the information we need for our own defense and to conduct an informed foreign policy, we would find, and the agency itself would today admit, that 95 per cent or 98 per cent of the information that is gathered comes from either overt sources or through the technical facilities that are available to the agency. The old cloak-and-dagger work which is connected romantically with the espionage methods of the past accounts for precious little."

According to the Senator, the intelligence agencies obtain the least amount of information from undercover agents in Communist countries.

A REAL JOB TO DO

"I have no objections whatever," he maintains, "to the utilization of whatever means there are at our disposal to collect essential information about foreign governments and their intentions and capabilities. That's intelligence work. I think most of it will come from our technical capabilities, but even if clandestine operations are necessary, I have no objection to them if they are confined to that purpose. But when it comes to manipulating events abroad through covert actions, then the first thing you must realize is that it's not intelligence. That is a method of concealed interference in the affairs of others in order to manipulate them."

Church also heads the subcommittee investigating multinational corporations such as International Telephone and Telegraph (which offered the CIA a million dollars to interfere in Chile), Exxon, Northrop, and Lockheed which for years have regularly been bribing government officials overseas. "What you have got," he explains, "is the American intelligence community and the American big-business community taking part in the internal affairs of foreign countries. We would not tolerate it if it were done to us. That's the double standard we live with all the time."

PUBLICIZING A MENACE

What Church hopes to do in the weeks to come in his open televised hearings is "to demonstrate the dangers that are implicit in the spreading use of illegal methods of surveillance, improper mail openings, and various other ways of spying on the American people.

"I suppose," he offers, "that George Orwell would have called it Big Brother government in this country. The sad truth is that the methods first adopted by law enforcement and intelligence agencies like the FBI and CIA have spread to other departments of the government. And if this isn't exposed and checked, then it could continue to grow into the beginnings of a police state in this country.

"I want to dramatize the dangers so that there will be sufficient public support for the changes in the law that must come to prevent this from spreading further.

"George Williams, one of the much beloved professors of theology at Harvard Divinity School, said to me one time something that I have always remembered, 'Choose your enemy very carefully, for you will grow to be more like him.' After World War II the Soviet Union became our perceived enemy and we undertook to contest with the Russians everything in the world.

"OUR OWN WORST ENEMY"

"To justify emulating their methods we said we had to treat fire with fire. And in the process, of course, we've become more like them. In a free society that can go only so far. We become our own worst enemy if we bring down a free society in the very name of defending it."

The Senator, having been a schoolboy orator, is, of course, a loquacious man. He has been accused of being overserious, a Boy Scout, too sincere, self-righteous, and a goody-goody who's intoxicated with the sound of his own voice.

When Church became one of the first Senators to oppose the Vietnamese war, an angry Lyndon Johnson began referring to him as Frank "Sunday School" Church. Later, apoplectic John Birchers in Idaho called him a "Commie-Symp," tried by petition to remove him from office by charging treason.

Convinced that the President did not have the right to order American troops into combat in Vietnam without Congressional consent, sure in his mind that the American involvement in Vietnam was a tragic mistake, Church refused to be swayed then by well-meaning friends who told him he was committing political suicide. In the end he was proved right.

Although he is pragmatic and willing to compromise—"I've always had the pragmatic view that you ought to legislate, and to legislate you have to remain in the realm of the possible"—Church is recognized by most of his colleagues as a man of integrity.

"Frankly," says one veteran Senator, "I'm not interested in what sort of image Church projects. Some members around here think he'd be better off if he stopped playing Mr. Clean or Mr. Nice Guy or Mr. Orator. I'm not interested in that. What interests me is the kind of work a Senator puts out. Church does good work. He does his homework. He works hard and long. I don't care about his style. I care about his substance. He's got plenty of that. One day he'll wind up succeeding John Sparkman as head of the Foreign Relations Committee, and I predict he'll do as good a job as Bill Fulbright did."

Says another Senator: "Personally I like Church. He's pleasant, intelligent, hard not to like, but if you ask him what time it is, you face the very real danger of getting an answer on the history of watchmaking."

A NEWSMAN'S VIEW

A journalist who's covered Church for years claims the Idaho Senator is "suspect because he never denounces anyone as a 'stupid son-of-a-bitch,' he doesn't tell off-color stories, he drinks hardly at all, and has a political braintruster in his wife the likes of which few other Senators have. Bethine Church is the ideal campaigner. Whither he goest, she goest, a politically supportive spark plug."

Frank Church is aware of his Boy Scout image and laughs at it. "They keep calling me an Eagle Scout," he says. "The truth is that I never got beyond Boy Scout Second Class."

"They also keep calling him the American Legion orator who uses words pompously," says his wife. "But he's not one bit pompous. I think Frank likes words. I think he's a Jeffersonian-type man. All the time he was in China during the war he wrote letters to me and they began, 'Darling Bethine' and ended with 'Love, Frosty.' In between they contained wonderful accounts of what was actually happening in China at that time. Frank is not pompous, he has the best sense of humor and laughs at himself more than anyone I've ever known.

"Just because he comes through as being very careful and serious on these intelligence hearings doesn't mean he's that way about himself at all."

Church is serious about matters of principle. And he believes that the people's right to privacy and freedom has been violated on occasion by the CIA, the FBI, the IRS, the Post Office, the Secret Service and other government agencies.

"I'm pretty relaxed about most things," he concedes. "But when it comes to the growing insidious danger to freedom in this country, when it comes to Big Brother government prying into every facet of our lives—I'm not relaxed about that. I'm alarmed."

If in that process, the public becomes grateful to Frank Church and catapults him into the top echelon of contenders for the Democratic Presidential nomination—that would not be half-bad. Ford versus Church would provide the nation with a very real ideological choice.

FIRST PUBLIC SPEECH BY JOHN E. ROBSON ON HIS NEW REGULATORY DUTIES

Mr. KENNEDY. Mr. President, the new Chairman of the Civil Aeronautics Board, John E. Robson, recently made his first public speech on his new regulatory duties. Last spring I chaired a lengthy series of hearings on the procedures of the CAB, and I therefore read his remarks with particular interest.

Mr. Robson's speech is notable for an openmindedness that is all too rare among Federal regulators. He forthrightly declares that, "No regulatory policy is entitled to the privilege of immortality. And the Board, above all, should not be immobilized because of nostalgia, timidity, or institutional resistance." I strongly concur. Such sentiments signal a most welcome thaw in the CAB policies of the past which have frozen out all new competitors and prevented any real price competition.

In his speech, Mr. Robson goes on to call for more studies and experiments and asks "that we urgently turn our intellects and energies to finding some answers." While I applaud this willingness to reexamine old solutions, I do not believe that we can overlook the fact that a great deal of study and thought has already been devoted to the issues of airline regulation.

In 1956 the House Judiciary Committee collected more than 3,000 pages of testimony and issued a comprehensive report of more than 300 pages which advocated "competition to the maximum extent practicable." This congressional study led directly to two major CAB in-

vestigations in the areas of fares and interairline cooperation, but, unfortunately, these investigations did not result in any significant Board actions to enhance competition in the airline industry.

The wisdom of the House committee report, however, was confirmed and the analysis refined in several scholarly studies of Federal regulation beginning with Professor Caves' excellent book in 1962. Since 1971, the Council of Economic Advisers has urged more competition among the airlines. Last July a special study by the CAB's own staff again reviewed all the arguments and again proposed essentially free competition. The Subcommittee on Administrative Practice and Procedure will shortly issue its comprehensive report which will detail the unfairness and inefficiencies brought on by excessive regulation.

Meanwhile, for 25 years the citizens of California have been able to choose between the CAB regulated carriers and intrastate airlines which offer more frequent flights at fares 25 to 50 percent lower than the CAB approved fares. Most have chosen to avoid the inefficiencies and frills induced by the CAB. In the last few years, exactly the same sort of "experiment" has been tried in Texas, and precisely the same results have occurred.

Mr. President, at some point the cries for "More proof" must end. Our Nation was not built by timid men. If the pilgrims had waited for every contingency to be investigated and every conceivable harm to be disapproved before they set sail, I suspect many citizens of Massachusetts would still be gathered on the dock in England waiting for the results of yet another experimental colony.

After listening to extensive hearings, I am convinced that the airline industry is ready to begin a new era, one in which fares and service are determined by healthy competition for the public's business rather than legal maneuvering before the CAB. I applaud the whole tone of Chairman Robson's speech which is very positive and forward looking. I want to commend him and to recommend this speech to my colleagues, and I therefore ask unanimous consent that it be printed in the RECORD.

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

REMARKS OF JOHN E. ROBSON, CHAIRMAN OF THE CIVIL AERONAUTICS BOARD

The story goes that Benjamin Franklin was once asked to define the form of government of the new nation he helped found. "A Republic", Franklin replied, "if we can keep it!"

Were I asked what kind of commercial aviation system America has enjoyed, I would answer, "a superb one". But I would also echo Ben Franklin by adding—"if we can keep it".

Even the most vocal and unyielding critics of the aviation industry and its regulatory framework—and they abound—would not disagree with my premise for today's remarks: it is, that this nation needs a dynamic, robust, and publicly responsive commercial air transportation system.

But I come today neither to praise nor bury the critics.

I come in a singularly troubled and turbulent hour for the aviation community: when a pernicious inflation, soaring fuel costs and a sagging economy have eroded the financial health of many carriers and threaten the existence of some; and when an often strident argument concerning the future of regulation swirls about the regulators and the regulated—challenging the premises of the past and the promises of the future.

The Civil Aeronautics Board is deeply concerned about the immediate difficulties confronting the aviation community. We know that fuel and other costs have risen and that traffic has been depressed. We know that abrupt domestic oil price decontrol and OPEC price increases would present special difficulties. They are problems which require action. The Board and all elements of the aviation community may not always share identical views as to the means for meeting these current problems.

But they are problems that command our urgent attention and will receive our energetic and objective efforts to implement actions that are effective, fair, reasonable and in the public interest.

An anecdote tells of the man who encountered a disconsolate friend and inquired as to the reason for his gloom. Upon being informed that the friend's wife had run off with another man just that morning, he tried to comfort him by remarking on his friend's youth and comeliness and assuring him that he would soon find a new spouse. "I know," declared the despairing friend, "but what will I do tonight?"

It is necessary and natural in times of turmoil and uncertainty to address the problems of the minute—to worry in the immediate tense. The responsibilities of my office require that I do so. And I do.

But, without at all intending to put aside the importance and necessity of dealing with aviation's most pressing problems of the moment, I ask your indulgence this afternoon to reach somewhat beyond—and to consider with me the question of how we can best assure for the longer term a healthy, responsive commercial air transport system—adequate to cope with the demands of a new economic era.

For it is my judgment that we have entered a new economic era, one characterized by a combination of economic forces which appears to make it qualitatively distinct from the past.

Previously we have had to contend with one or another of these forces only sporadically. But it appears now that these conditions will persist in significant degree into the indefinite future. Each of these factors affects the whole of the economic realm. But each also has its special impact upon the aviation community—by which I mean all classes of carriers, the manufacturers and suppliers, labor, financial institutions, airport operators, the travel business, the traveler, and those elements of the public sector with aviation responsibilities.

What are these factors?

First, there is inflation. We have, of course, faced inflation before. But the events of the past few years at home and the experiences of other industrialized nations suggest that, over the long term, America will be compelled to coexist with a persistent inflation at an average annual rate much higher than was ever considered likely.

Second, there is energy. I cannot predict what will emerge from the meanderings of Congress and the Administration or the machinations of the OPEC cartel. But few disagree that, for the long term, we can expect energy costs which will make historical prices look like giveaways.

Third, there is uncertainty as to the future extent, sources and mechanisms of capital formation and supply. Will there be adequate sources of capital? Will new financing devices be required? What will be the priorities among competing demands? And where will the aviation industry stand in a fierce competition for capital?

Fourth, there is the embedded and increasing cost of consumer and environmental protection. The consumer and environmental movements have matured from their crusade-like beginnings, and are now embodied in laws and regulations which touch virtually every aspect of economic endeavor. Aviation has already felt the impact.

Fifth, there are questions whether the U.S. will maintain, at least on as broad a front as in the past, the pace of technological advance which has historically made American innovation and productivity formidable weapons in the battle to maintain domestic economic growth and to compete abroad. While we have not had the prescience to forecast exactly where and when significant technical progress will appear, we have had some meaningful indications which point to communications, energy, agriculture, and perhaps medicine, as the most likely fields for important technological gains. Many now doubt whether the past pattern of "great leaps forward" in technology and productivity in aviation will be sustained in the future—a matter of special concern since this has allowed us to defer confrontation with some deep-rooted problems, such as those in the labor-management area.

Sixth, there is the emergence of a considerably more interdependent world economy. We now feel the impact of international economic events—events which are heavily imbued with world political considerations—with a velocity and intensity never before experienced. This adds new dimensions of complexity and volatility to economic and business planning for both the public and private sectors.

These observations are not discoveries of mine. Others have much more expertly made and analyzed them. It seems dubious, though, that these economic forces are readily amenable to effective control. And there is a dramatic significance in their combined impact and apparent permanence.

If that thesis is correct, we not only face a qualitatively different economic future, but we are as powerless to turn back the clock as King Canute was powerless to command the ocean to recede. I should emphasize, however, it is not an economic future that is necessarily bleak. It is simply different.

The implications for the aviation community are pervasive and profound. For this combination of economic factors will influence traffic growth, costs, productivity, financing, marketing, operations, the choices for equipment and facilities, relationships with labor and customers, and the actions of government.

And in the face of a future economic environment which differs markedly from the past, I am impelled to some further observations.

Admittedly, it is comfortable for all of us to dwell in the familiar. And it is tempting, like some wrinkled actress past her prime, to bathe in the happier circumstances of days past.

Whatever superlatives may be legitimately accorded the aviation regulatory policies conceived and developed under other economic conditions, one must ask whether those policies will serve the aviation community and the country to cope successfully over the long term with the realities of a different economic environment.

Will present regulatory policies foster rational fuel consumption?

Will they produce an adequate return on investment and assure access at reasonable cost to the capital necessary to finance equipment, facilities and other corporate needs?

Will they stimulate traffic growth through reasonable passenger fares and cargo rates, options in types of service, and broadening economic access to air transport for travelers and shippers?

Will they maximize technological innovation and productivity gains?

Will they adequately protect legitimate consumer interests?

Will they assure wide geographic access to air travel and the maintenance of a system which meets the needs of business and leisure travelers and shippers, including the maintenance of an adequate and reliable system of scheduled flights?

Will they insure this nation's effective and equitable participation in international air transport?

And will those policies enable management to plan and adequately control their business affairs, provide the capacity to respond to the inevitable peaks and valleys of economic life, and offer an opportunity for creativity?

If present regulatory policies will not, what regulatory policies will?

It would seem a stark imperative that we urgently turn our intellects and energies to finding some answers.

But we will not find answers to these complex issues by simply defending the past. We will not find answers in mere speculation as to the consequences of regulatory change. We will not find answers if we are too timid to experiment so that we may better know the facts and consequences of theories untested in this unique industry. And we will not find answers if we fear to ask questions.

The price of ignorance is too high. For that reason I value the current debate over the future of aviation regulatory policy. And, without ignoring the necessity of dealing with today's most pressing problems, I intend to participate in it. It will not always be a pleasant debate. Hopefully, it will stimulate the aviation community to a serious self-examination and help overcome our sometimes narcotic complacence with the familiar and the comfortable. It should encourage the testing of regulatory precepts against the demands of a future and different economic environment. It should impel us to experiment with new concepts. If it does these things, it will prove to have been a most worthwhile debate.

It is this process of analysis, testing of regulatory policies and experimentation to which I hope to devote much of my own thought and energies. I will do so not because I yearn to join those who so loudly criticize what has been done in the past. I will do so because I am convinced that it is essential to the future. In order to insure that America will maintain a vital and responsive commercial air transport system, we should probe, illuminate and evaluate regulatory alternatives—and adopt such changes as we become persuaded are sound and will help contend with the problems to be faced.

I believe the Civil Aeronautics Board should and can perform a constructive role in this process.

The Board can act as a catalyst and provide a forum to examine regulatory issues. However, the aviation community must realize that, while the Board has obligations to think for itself and think with you, it cannot think for you.

The Board can provide the laboratory in which to experiment with different regulatory concepts and stimulate innovation. In doing so, it can help expand the empirical data essential to reach sound decisions and illuminate techniques of desired change. As you are aware, the Board has recently decided to try a new charter concept. It has also proposed a line of suggested deregulatory experimentation. But I should observe that it is of little consequence whether the precise form of experimentation outlined in that or any other proposal of the Board is implemented. What is important is that experimentation go forward.

The Board can, and it will, modernize its procedures to maximize our own capacity to be responsive and flexible in the face of changing conditions.

Finally, the Board can maintain a responsible and objective sense of self-examination. No regulatory policy is entitled to the privilege of immortality. And the Board, above all, should not be immobilized because of nostalgia, timidity or institutional resistance. I do not believe that it will be.

During periods of widespread public dissatisfaction with government, politics, economic conditions, and the general states of affairs, there is a tendency to condemn the old and grasp for the new simply because it is new—a cult of change—what one British critic has called "neophilia". I am satisfied that I have reached the observations I make today free of that affliction. Indeed, I reject the concept of change only for the sake of change. Nor do I think it responsible, as some have advocated, to abruptly demolish the entire regulatory structure. I am willing to undertake some responsible remodeling of the structure—but not with a wrecking ball.

I have a deep conviction that a strong, publicly responsive and privately owned commercial air transport system is an essential asset to American life. And in cases where we become persuaded that changes in the regulatory framework or regulatory policy are necessary to maintain or improve that asset, we must have the guts and the good sense to make those changes—and the imagination and sensitivity to develop a responsible means of transition.

Hopefully, within the next several months, some of the most pressing and immediate problems which now threaten the aviation community will abate. Nothing would please me more. But I doubt that even this happy circumstance would alter the views I have expressed about long term changes which are occurring in the economic environment, or my conviction that a vital air transport system depends on equipping ourselves to grapple with that changed environment.

I say this with optimism and a firm confidence that the aviation community will, as it has in the past, respond creatively and forcefully to meet the future.

BRIMMER CALLS FOR MORE EXPANSIONARY MONETARY POLICY

Mr. HUMPHREY. Mr. President, I call attention to an excellent New York Times' article by Andrew Brimmer, professor of economics at Harvard and former governor of the Federal Reserve.

Mr. Brimmer shares the concern of many esteemed economists that without more stimulative fiscal and monetary policies we will not experience a strong, sustained recovery. He feels it will be necessary for the Federal Reserve to increase the supply of money at an annual growth rate of 8 percent in order to satisfactorily increase production and decrease the level of unemployment.

As Dr. Brimmer stresses, the inflation we will experience this year will not be due to excess demand or excessive pressure of wage costs on prices, but will be due to increases in food prices and the administration's energy policy of decontrol and a $2 import tariff. Thus, restrictive monetary and fiscal policies will not only exacerbate unemployment, but will be ineffective in dealing with inflation as well.

Mr. President, I feel that Mr. Brimmer's insights and recommendations deserve serious consideration. Therefore, I ask unanimous consent that his article be printed in the RECORD.

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

INFLATION—IT'S NOT THE REAL PROBLEM

(By Andrew F. Brimmer)

The pace of inflation is the United States has accelerated in the last month, which has produced new cries of alarm throughout the land. The reaction, however, is both premature and grossly overdrawn.

In June, the Consumer Price Index rose by eight-tenths of 1 percent on a seasonally, adjusted basis. This represented an annual rate of advance of 9.6 percent—double the increase in May and the highest rate recorded this year. In July, the Wholesale Price Index rose by 1.2 percent—equivalent to a yearly climb of 14.4 percent and the second-largest monthly advance of 1975.

Although fairly large increases in both indexes had been widely expected, they still created general dismay and induced Federal Government officials to issue new warnings about the dangers of rekindling double-digit inflation.

It can be readily agreed that inflation remains a problem in this country. But it is also necessary to put the matter in perspective: The quickened pace of inflation and the somewhat lessened chances of making further progress in checking the general price rise over the next year or so are due almost entirely to exports of grain to the Soviet Union and, more important, the determination of the Ford Administration to press ahead with efforts to reduce American dependence on imported oil.

Without the large grain shipments and the impact of higher oil prices, the overall rate of inflation in the United States might have been in the 4.5 to 5.5 per cent range over the next 15 to 18 months versus the 6 to 7 per cent that now seems in prospect.

It is vital that this point be understood by the public. It is even more important that Federal policymakers, including those in the Federal Reserve System, understand it—and thus avoid pursuing economic policies which can do little to check the anticipated rise in food and fuel prices but which can further retard the already sluggish recovery from the worst recession we have had since 1937.

Over the next year or so, there is no chance whatsoever that excess demand would rekindle double-digit inflation in the United States. Expressed differently, the type of inflation that results from "too much money chasing too few goods" can be ruled out between now and the middle of 1977.

The reasons are clear. The slow pace of recovery, which virtually every observer agrees is now in prospect means that most businesses will be struggling with an extremely large backlog of unused capacity in the face of very weak demand for output.

For example in the second quarter of this year, production amounted to only 66 per cent of capacity in manufacturing, compared with 83 per cent during the peak of activity in the final quarter of 1973. According to econometric projections made by Data Resources, Inc., capacity utilization rate may not exceed 75 per cent for as far out as 1977. Moreover, even in primary processing industries, which encountered serious bottlenecks in 1973, the continued expansion of facilities and the moderate growth of demand will provide a sizeable margin of unused capacity over the next two years.

Under those circumstances, business will find it difficult to post and sustain large price increases, despite the pressure on profit margins. Consider the situation in the steel industry in which a scheduled increase of more than 9 per cent on certain products was canceled by two smaller companies when the industry leader announced an increase of less than 4 per cent.

The persistent weakness in labor markets, typified by the high level of unemployment—which may still be around 7.5 per cent at the end of next year—will continue to dampen wage inflation. For example, average hourly earnings, adjusted for overtime and industry mix, rose at an annual rate of 6.7 per cent in the second quarter compared with 8 per cent in 1974 as a whole and 8.3 per cent in the first quarter of this year.

Again, according to the Data Resources forecast, the increase in earnings may remain below 7 per cent through the first quarter of 1976 and may climb to 7.75 per cent only in the last quarter of next year.

And the adverse effects of wage inflation on unit labor costs and the general price level will be reduced appreciably by significant gains in productivity as the economy recovers.

Given the slow recovery, excess capacity, high unemployment and the easing of pressure on unit labor costs, the over-all rate of inflation, measured by consumer prices, may recede to just under 6 per cent by the end of this year, average 6.1 per cent in 1976 and 5.9 per cent in 1977. In 1974, the rise was 11 per cent.

The Wholesale Price Index, which rose by 18.8 per cent last year, may be rising at an annual rate of 5.3 percent in the fourth quarter of this year, then hit more than 7 per cent in 1977.

So, while the projected rate of inflation remains high, the pace is considerably below that registered a year ago. Furthermore, perhaps as much as one percentage point of the inflation forecast by Data Resources can be classed as Government-induced, through the plan to promote higher domestic energy prices

Behind the consumer price rise in June was a particularly sharp increase of 1.9 per cent in food prices. This represented a seasonally adjusted annual rate of 22.8 per cent. In both 1973 and 1974, food prices rose by about 14 per cent.

But ample harvests still seem to be in prospect here and abroad, including the Soviet Union, and domestic inflation in food prices should be limited to about 7 per cent in the second half of 1975—and within the 5 to 6 per cent range in 1976 and 1977.

A great deal has been said and written about the likely impact of grain exports on consumer prices, much of it, grossly distorted. There is at present no reason at all to expect a simple repetition of the unhappy results of the large grain shipments of 1972–73. In that period, the Soviet Union reportedly imported about 20.5 million metric tons of grains from worldwide sources, just under 75 per cent of which came from the United States.

This time, the Russians have bought about 14 million tons of wheat and other grains so far, with indications that they may attempt to buy abroad as much as 22 million tons during the 1975–76 season. Of this, perhaps 68 per cent would come from the United States.

In 1972, the Russians bought wheat in the United States for an average of $1.62 a bushel, but the 1975 sales so far have been contracted at an average price of about $3.64. In 1972, the gap between worldwide and subsidized United States prices was quite large. Today, there is little or no differential. Between early June, when the Soviet purchases were first rumored, and early August, wheat prices rose by about 30 per cent to $3.80 a bushel. Over the same period corn rose by 20 per cent and soybeans by 25 per cent.

We should appreciate that the main motivation behind the Soviet Union's demands on the world grain markets seems to be to provide feed to sustain a greatly expanded livestock industry and that there has been only a marginal shortfall in its own production. For example, the United States Department of Agriculture is currently anticipating a 1975 Soviet grain harvest of about 185 million metric tons. While this is a scaling down from the 210 million tons expected earlier, it is still quite close to the near record level of 187 million tons produced in 1970.

And, it should be noted, the Secretary of Agriculture has asked United States grain traders not to negotiate any new contracts with the Soviet Union until late September, when a better feeling for the actual harvest can be obtained.

On balance, then, given good crops and expert management of export policy, the grain sales to the Russians should have a relatively slight impact on food prices.

The most important obstacle to continued progress in checking inflation is the Ford Administration's energy policy—the keystone of which is a strong drive to reduce dependence on the foreign sources that provide about 35 per cent of our oil and petroleum products.

The precise content of the Administration's energy policy is still evolving in the face of strong Congressional opposition. However, the main elements are known. The President wants to deregulate "old" $5.25-a-barrel domestic oil (that produced from wells brought in during 1972 or earlier). For "new" oil, an initial price ceiling of $11.50 a barrel would be set to rise subsequently by 5 cents a month until all controls were eliminated.

The Administration recognizes that the price rises would have an adverse impact on the economy because of a sizable withdrawal of consumer purchasing power. To offset this, it is proposing tax reductions, mainly for middle-income and low-income persons. To finance the transfers, a windfall-profits tax would be imposed on producers and a tax of $2 a barrel would be applied against crude oil.

If the control of old domestic oil were to expire on schedule on Aug. 31, the shock to an already-weak economy would be extremely severe. The exact dimensions of the effect cannot be estimated, but one can get a rough idea of the consequences of pursuing the gradual deregulation approach.

Data Resources, which assumed a ceiling price of $13.50 a barrel for all oil—old, new and imported—and a decontrol period of 30 months, found that old oil alone, decontrolled at the rate of 3.3 per cent a month, would impose an added direct cost of $15-billion on the economy in two and a half years—an amount equal to eight-tenths of 1 per cent of G.N.P.

Indirect costs would also accrue as the higher prices of petroleum products filtered through the grid of industrial production.

In summary, the President's energy program—if it becomes law—would add about three-tenths of 1 per cent to the rate of inflation in 1976 measured by Consumer Price Index and another eight-tenths of 1 per cent in 1977. But the differential on wholesale prices would be far larger because of the greater weight of oil in that index. The inflation rate shown by the W.P.I. might be 1.3 per cent higher in 1976 and 2.5 per cent in 1977.

Aside from the sharp lift to inflation, the energy program would also dampen the rise in output and slow the decline in unemployment. Housing starts and business spending on fixed equipment would be restrained. The impact on the production and sale of automobiles would be especially adverse. Because of the importance of this industry for such a large network of suppliers, the economy-wide dampening effects would be multiplied.

From the foregoing discussion, an important conclusion emerges: The extra boost to inflation which we are likely to experience over the next year or so will have its roots in food prices and the Ford Administration's energy policy. Virtually none of the higher rate can be attributed to excess demand or excessive pressure of wage costs on prices.

Consequently, it would be extremely unwise for the Administration and the Federal Reserve to pursue the kind of restrictive fiscal and monetary policy that would be called for if the economy were running into capacity limitations and thus generating inflation of the traditional, excess-demand variety.

Yet, in mid-June the Federal Reserve began to restrain the provision of bank reserves and pushed up short-term interest rates just as the economy was beginning to pull out of the recession. Its motive, according to Congressional testimony, was to moderate what it believed was an excessive rise in the money stock.

In June, the narrowly defined money stock rose at a seasonally adjusted annual rate of 20 per cent—which mainly reflected the redeposit of income tax rebate checks. In July, there was virtually no growth. Moreover, the demand for bank loans by businesses has been shrinking during most of this year.

The Federal Reserve's last announced growth target for the money supply was a range of 5 to 7.5 per cent from the second quarter of this year through the second quarter of 1976.

No explicit target for interest rates was announced, but it is clear that the system expects some further rise in short-term rates, from the prevailing 6 per cent or so over the months ahead. Such an expectation would be consistent with its announced aim of seeking moderate growth in the monetary aggregates while pressing on in the fight against inflation.

In my view, the Federal Reserve's perception of its near-term task is mistaken and ought to be revised. Over the next year at least it should promote the growth of money and credit availability at a rate sufficient to assure a vigorous recovery and some further reduction in unemployment. I would urge an annual growth of 8 to 10 per cent in the money stock with associated easier credit conditions and lower interest rates. At this juncture, both short-term and long-term interest rates are too high, and a resumption of the interrupted down-trend should be encouraged. Otherwise, the restoration of corporate liquidity and the much-needed funding of short-term debt cannot occur.

If the economy remains on the sluggish course it is currently traveling, corporate profits after taxes (stripped of inflation) may still be in the neighborhood of $49-billion in 1977—an amount not even matching the $50-billion recorded in 1973. Under those conditions, the corporate sector could not finance the spending on fixed investment which will clearly be needed if we are to provide jobs for our expanding labor force in the years ahead.

The stimulus to economic activity can be undertaken safely, without any major risk of rekindling double-digit inflation.

SOVIET NAVY

Mr. TAFT. Mr. President, the July issue of the United States Naval Institute Proceedings contained one of the best statements I have seen on the current balance between the United States and the Soviet Navies. I ask unanimous consent that this article, "The Trend in Naval Power: A Crisis of Resolve" by Norman L. Stone be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. TAFT. Mr. President, there are

several points in this excellent article which I would particularly call to my colleagues' attention. It is noted that we commonly believe that we are far ahead of the Soviet Union in defense technology. As I have warned in the past, this is not necessarily true. Out of 167 major technology areas, in 1973 the United States had a major lead in 26 and the Soviets in 28, while 55 were about even. If one couples general Soviet quantitative superiority in with approaching Soviet technical parity, the prospect is frightening.

In the categories of quantity of naval forces, ship speed, propulsion technology, antiship missiles, and command and control the Soviets may or clearly do lead us. In such areas as submarine technology and aircraft deployed at sea, the Soviets are catching up to us.

I would finally note the author's observation that—

It is by no means clear that the planned U.S. program—coupled with rising costs—permit us to narrow the gap within the nearly constant Navy budget. Little in the past five years leads one to the conclusion that normal steps will solve the problem . . . if the trend is to be reversed, we are simply going to have to do all we have been doing and allocate still more resources. In short we are going to have to spend more on the Navy.

I believe there may be a great deal of truth in that observation. It is something we in the Congress have a responsibility to think about. It is our task to develop the resources, or transfer resources from other elements of the defense budget, that may be needed to meet the Soviet naval challenge.

EXHIBIT 1

THE TREND IN NAVAL POWER: A CRISIS OF RESOLVE

(By Norman L. Stone)

At a recent Navy-industry symposium nearly all the speakers were career officers, mostly captains and admirals. For the first time in my 20-year association with the Navy, I detected an undercurrent of gloom. Each officer spoke to his subject with what he probably believed was optimism and enthusiasm. They talked of new U.S. plans and accomplishments. But, as each speaker compared our accomplishments and plans with those of the Soviets in similar areas, he also told of the narrowing gap between our technology and capabilities and theirs. Speaker after speaker had that point of view. Several spoke of our "catching up" with what the Soviet have already accomplished.

The same sense of pessimism was evident in the remarks of Admiral Elmo R. Zumwalt, Jr., in his valedictory as Chief of Naval Operations. Admiral Zumwalt warned:

". . . because of drastic reductions in naval forces and personnel, our Navy has reached a point where it no longer can, with certainty, guarantee free use of the ocean lifelines to U.S. and allied forces in the face of a new, powerful, and growing Soviet fleet."

Admiral Zumwalt's words seem to be an acknowledgement of a situation that Admiral of the Fleet of the Soviet Union Sergei Gorshkov predicted some years ago when he said, "Sooner or later the United States will have to understand that it no longer has mastery of the seas."

Let us review where we are, how we got there, and what might be done about it. The following are illustration of the trend in seven selected areas:

Defense Technology. Every year at budget hearing time, Navy and Department of Defense officials present a comparative picture of U.S. and Soviet relative strength in armed forces and related technology. During one such presentation in 1973, the Director of Defense Research and Engineering, Dr. Malcolm Currie, listed 167 comparative technology areas. In 26 of these the United States had a major lead; in 11 the U.S.S.R. had a major lead. The United States had some lead in 47 and the Soviets in 28. The remaining 55 were about equal. This compared with previous years when the United States had overwhelming technological superiority. The situation has worsened since 1973.

In 1972 there were 640,000 working engineers and scientists in the U.S.S.R., compared to 560,000 in the United States. The Soviets now have a 2:1 advantage in the number of engineers and scientists graduating annually.

This country has dismantled large parts of its research and development and its engineering development capability. One result is the declining engineering and science enrollment in U.S. colleges and universities.

Quantity of Naval Forces (1975): The following table tells the story:

	U.S.	U.S.S.R.
Manpower (estimated)	540,000	475,000
Active ships	502	* 2,000
New construction (1962–72)	263	911
Submarines	116	250

* About 1,200 of these are small coastal escorts, missile patrol boats, and mine warfare ships.

Ship speed: The average "modern" U.S. destroyer or frigate can make 31 knots. The Soviets have been building 36-knot destroyers since before 1957. Examples are the Kildin and SAM Kotlin-class destroyers.

Propulsion technology: The Soviets have one cruiser class (Kara) and two classes of gas turbine-powered guided-missile destroyers in being, the Krivak and Kashin. The first Kashins were completed in 1962. Our first DD-size class equipped with gas turbine propulsion is the *Spruance* (DD–963).

Antiship missiles: As a result of the 1967 sinking of the Israeli destroyer *Elath*, nearly every citizen knows that the Soviets have developed an effective antiship cruise missile. It was deployed years earlier. The missiles that sank the *Elath* were hand-me-downs given to Egypt. The Soviets keep the latest and best for themselves. Their cruise missile designs are maturing through second and third generation and are a cause of major concern in our Navy.

In 1971 the U.S. antiship missile, now evolving as Harpoon, began development. Surface-launched Harpoon has yet to be deployed. Encapsulated Harpoon for launch from submarines is still farther away.

Command and control: The Soviets have an elaborate, secure, real-time, worldwide naval command-and-control network in operation. The Navy Tactical Data System (NTDS) is installed in key U.S. ships, but we are only now beginning to plan and widely introduce secure fleet command-and-control links with sufficient real-time capability for tactical voice.

Submarine technology: This area where the United States once held an overpowering lead—particularly in nuclear propulsion and submarine-launched ballistic missiles—is changing rapidly. Not only have the Soviets now exceeded our nuclear construction (110 submarines to 105 for the United States), but they have launched the new Delta-class strategic SSBN carrying the SS–N–8 missile with a 4,200-mile range that surpasses the range of anything we have. According to Jane's Fighting Ships, the Soviet Delta-class ballistic missile submarines are the largest in the world.

Admittedly, these are selected areas. It is also true that the number of ships in a fleet and tonnage alone are not enough to measure naval power. Capabilities of the fleets must be considered in the light of their missions and their ability to perform them.

The picture is not all bleak. The Soviets are still deficient in antisubmarine warfare and have been weak in logistic support of a blue-water fleet. We have 15 conventional aircraft carriers compared to none for the Soviets. Our naval strike air power has no Soviet sea-based equivalent. The F–14 has no parallel. The Soviets, however, have *Moskva*-class helicopter carriers, which are a beginning. And their new 35–40,000-ton Kiev-class v/STOL carriers are about the displacement of our *Essex* class. The first has been launched, and a second is under construction. Soviets have more than 300 aircraft equipped with antiship missiles in their land-based naval air force. These can be supported by Soviet aviation within range of land bases.

The dependence of the United States on the sea for critical materials is much greater than that of the Soviet Union. The Soviets historically have been a land power. The Soviet-controlled land mass has vast material resources that do not require overseas shipment to reach Russian industry. Interestingly, much of the Soviet internal transport is by water. The U.S.S.R. has a long and elaborate network of inland waterways based on rivers and lakes with canals interlinking them.

The United States must be more than equal in naval power if it is to have adequate security of its sea supply routes. Yet the U.S. Navy has reduced the number of its ships by 49% and aircraft by 23% since 1968. That reduction came about because fleet operating costs had to be reduced in order to remain within the budget while paying for new ships and other weapons.

The time may well be fast coming when the Soviets can put all or most major U.S. surface combatants under direct surveillance and threat. Each ship would be so clearly at immediate peril to missiles that a "limited" U.S. response would not be possible. Such a situation would substantially reduce the "options" that our Secretaries of Defense have been seeking.

What will be the outcome of such trends? Can we reasonably project any final result? The stated reason for our present force reductions is to allow funds for rebuilding and modernization of our fleet. Nevertheless, many believe that our present path cannot reverse the trend.

The Navy has new programs under way that are intended to steadily build up both the numbers and capabilities of naval forces from our present low point. The reductions in ships and manpower were accepted in order to permit these programs. They include the F–14 Tomcat, the S–3A Viking, the *Spruance*-class destroyer, the *Los Angeles*-class (SSN–688) attack submarine, the *Pegasus*-class (PHM–1) patrol combatant missile (hydrofoil), the *Virginia*-class (CGN–38) nuclear cruiser, the *Tarawa*-class (LHA–1) amphibious assault ship, Harpoon, Trident, guided-missile frigate (FFG–7) class, and perhaps a small SSBN. The antiship missile defense program, Vulcan Phlanax, close-in weapon system, Aegis, and design-to-cost electronic warfare programs are intended to help solve the antiship missile and fleet air defense problems.

All were undertaken with the expectation that, once completed, they would put us at least on a par with the Soviets. These are impressive, well-thought-out programs and perhaps would have done the job had not the Soviets started even more ambitious enterprises. It is by no means clear that the planned U.S. programs—coupled with rising costs—permit us to narrow the gap within

the nearly constant Navy budget. Little in the past five years leads one to the conclusion that normal steps will solve the problem. We have underestimated Soviet naval intentions and capabilities in the past. Current predictions by some of our leaders show a leveling off in Soviet introduction of new naval weapon systems and new construction. Presumably this leveling off, combined with our present initiatives, will permit us to regain leadership or at least maintain the status quo. The trend of the last five years, however, does not suggest that the Soviets are losing any resolution in their push for naval supremacy. What the Soviets do has a critical effect on our relative strengths. They continue to develop, build, and deploy ships and weapons systems at a rate that by most measures exceeds our future planned rate. Our highest naval leaders consider the training and professionalism of the Soviet Navy to be close to the level of that in our own Navy.

Let us examine two main differences between the Soviet approach to naval power and ours:

Continuity of approach.

Allocation of resources.

The Commander-in-Chief of the Soviet Navy and First Deputy Minister of Defense is Admiral of the Fleet of the Soviet Union Sergei Gorshkov. He is the Soviet equivalent of our CNO and Secretary of the Navy combined. Since 1956 he has rebuilt the Soviet Fleet and revised naval policy so that the Soviets can now project their power anywhere in the world. The Soviet humiliation caused by the U.S. naval blockade during the Cuban Missile Crisis helped accelerate the process.

In contrast to Admiral Gorshkov's career, we have a policy of rotating most of our leaders, no matter how capable, every two to four years. During Admiral Gorshkov's tenure we have had six CNOs and nine Secretaries of the Navy. A notable exception to this rapid turnover at decision-making levels is Admiral H. G. Rickover. Perhaps the notable results he has obtained tell us something. How can we have adequate continuity of direction if we change leaders in less time than it takes to bring any new weapon system or ship much past the planning and early development stages? There is now a move toward longer tenure in office for major weapon system program managers. It is a step in the right direction, but not nearly enough.

One consequence of the rapid changes in direction, not only in the Navy, but in DoD as well, is that different and not necessarily compatible directives and policies have been put forth.

When Robert S. McNamara was Secretary of Defense, "total package procurement," "commonality," and "cost-effectiveness" were watchwords. Results were mixed. Long-term, inflexible, fixed-price contracts in a period of severe inflation were made before proving out the initial hardware. These proved impractical in some well-known cases. For example, the F–111B did not meet the Navy's desired objectives. Thus, the attempt at commonality failed.

Next came a push for "quality" in weapon systems, since we couldn't hope to outdo the Soviets in quantity while maintaining austere budgets. The idea was to "think smart" and thereby cut costs. In some cases we got "quality." The F–14 is an example but at a price of $18.5 million per aircraft. We will probably get "quality" in Trident at $800 million per submarine fully armed. It is not so clear what happened to the 46 *Knox*-class frigates say these 46 ships were clearly inferior to Soviet new construction of similar class (Kashin) before they came off the ways. So "quality" was not obtained at $28 million per ship, and today the equivalent ship would cost much more.

We got the "fly before buy" "milestone" concepts that are still with us. These doubtless reduce waste but do not sufficiently close gaps in naval power. Now the key words are "design to cost." Under this concept, we select in advance a cost that a particular function or weapon system is worth and then design hardware which will cost no more than that. The idea is to reduce capability, if necessary, until the cost goal is met. That method is akin to what a commercial manufacturer must do in pricing his goods for the competitive market.

"Balanced force" means that we will have a mix of a few high-quality systems and ships and a larger number of moderately capable systems. Examples of the high end include the F–14, Trident, and DD–963. The low end would include the new FFG–7 class and the lightweight fighter.

Each administration pushes the approach which seems most promising at the time. Surely greater continuity of leadership could overcome some of the zigs and zags. The possibility exists to achieve superiority in neither quality nor quantity. To some we appear to be following that path now.

Selective development in several critical areas in which we excel or can hope to excel suggests itself as one approach. Germany, a land power waging war against sea powers, twice nearly brought her opponents down through selective excellence in a single area—submarine warfare. Submarine warfare is an area in which the United States still has some technological advantages and suggests itself for even more intensive development.

Let us move to the comparative allocation of resources. The publicly announced Soviet defense budgets do not include research and development and are estimated to leave out about 68% of the true costs. The Soviets piously compare their announced expenditures against ours to prove their peacelike intentions. As of fiscal year 1973 the Soviets were spending an estimated $80 billion on armed forces against our $74 billion. They allocate what is estimated to be 12–20% of their smaller gross national product to defense, compared to our 6%. Of the U.S. fiscal year 1976 proposed defense budget of $104.7 billion, the Navy's share is $34.1 billion. Of that about 47% goes for manpower. The Soviets, with their much lower standard of living and a per capita national income that is one-third of ours, pay only 25% of their defense budget for manpower. That much more is left for ships and weapon systems. Increases in our efficiency do not offset differences that large in fundamental approach.

Our present level of defense spending of more than $100 billion is about 6% of our GNP of $1.6 trillion. Individual income taxes provide about 42% of the federal income and corporate taxes, 14%. An increase in the Navy's proposed fiscal year 1976 budget of $34 billion by $8.5 billion or 25% would average $90 per taxpayer. Such an increase would begin to buy parity with Soviet sea power. Continued annually, it would amount to research and development of five additional major new weapon system programs per year plus new construction and manning of ten more major combatant ships or their equivalent in aircraft per year. This assumes $500 million per R&D program or ship, including an allowance for operations during the life of the ship. It would go a long way toward changing the trend.

If the trend is to be reversed, we are simply going to have to do all we have been doing and allocate still more resources. In short we are going to have to spend more on the Navy. That means convincing DoD, the executive, Congress, and the public that there is a problem and that it *must* be solved.

The United States—with her open society and competitive economy—must obtain agreement from the voter and taxpayer to a much larger degree than the Soviets with their controlled economy. Navy budgets are open to inspection and approval by the Congress and the people who elected them, which is as it should be. Priorities are not decided by a small, relatively continuous ruling group. Every new program that affects the amount of taxes paid or diverts funds from other non-military federal programs must eventually be bought by the public. The budget cycle—including annual approval—contributes to the lack of continuity of direction because DoD cannot depend on funding. Perhaps a two or four-year approval would make more sense.

Another factor must be considered—the principle of inertia. Large objects require a lot of force and time to get them moving. If already moving, they take a lot of force and time to change direction. The U.S. Government budget and our Navy are large objects. They take time to change. Speaking of our chance of maintaining overall qualitative superiority over the Soviets in the submarine area, Admiral Rickover said in 1970, "I think it is too late even now. I think if we work hard we can try to catch up."

A downward trend in naval power is hard to reverse. It takes lead time. Technology does not spring instantly into being. Neither do modern ships. The time to start is now.

That large programs are costly must be faced. Significant programs usually do cost significant money. That our leaders are forced to understate projected probable costs of programs in order to get them approved is wrong. If, as many indications suggest, our present policy of chronic insufficiency will lead to a Navy second to the Russians, we must be prepared to accept the consequences, or the policy must be radically changed. For this change to happen the following must come about.

Naval leaders and others in a position to know the facts must take an even more positive and aggressive stance than is evident. They must present more convincing evidence before the President, DoD, and Congress. The message must be gotten to the American people. Who says Americans won't agree to sacrifices if convinced of the worth of the objective? The significance of present trends and the critical importance of naval power must be brought out more strongly in the media and through other communication routes.

The country with one of the best and highest per capita living standards in the world (and the most to lose) can surely afford the Navy it needs. The public must be convinced of the benefits of increased naval strength and the proper balance of social and economic programs that also compete for funds. If increased taxation or federal budget reallocation is the only solution, it must be instituted.

To the degree controllable by the Navy, we must provide a mechanism for greater continuity of policy and leadership. It is true that CNOs are appointed and that the administrations who appoint them change. But there are also many other policymaking leadership jobs entirely within the control of the Navy where continuity could be maintained as is *not* generally done now.

It is not without reason that one of the most famous and ridiculed phrases in recent history illustrates the futility of negotiating from weakness. Neville Chamberlain's statement after Munich, "There will be peace in our time," heralded a war that resulted in more than 25 million deaths. How often must we relearn what history has taught?

(NOTE.—A graduate of Lehigh University, Mr. Stone earned a B.S. in Electrical Engineering, and an M.S. in Applied Physics from Adelphi University. He has spent much of his career in association with U.S. Navy development programs. He served with the U.S. Air Force as radar maintenance and communications officer and was General Manager of Ocean Systems Division with Sanders Associates in Nashua, New Hampshire. He is now Director of Reconnaissance and Surveillance,

AIL Division of Cutler-Hammer, Deer Park, N.Y.)

LETTER TO CHAIRMAN WILEY

Mr. PROXMIRE. Mr. President, Chairman Richard E. Wiley of the Federal Communications Commission deserves credit for proposals he made public in a speech in New York City last week Tuesday. Because I have been a critic of governmental controls over broadcast programing, particularly in news, I have written Mr. Wiley to congratulate him for the steps he would have the Commission take.

The Chairman said that he would propose liberalization of the FCC's fairness doctrine and of its rulings on the equal time rule. I have introduced legislation, S. 2, to abolish both and to end FCC oversight over programing content. I will continue to press for passage of that bill. Yet, Mr. Wiley's proposals are welcome.

Mr. President, I ask unanimous consent that the text of my letter to Mr. Wiley be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., September 22, 1975.

Hon. RICHARD E. WILEY,
Chairman, Federal Communications Commission, Washington, D.C.

DEAR DICK: Congratulations on your speech to the International Radio and Television Society in New York last week.

Your proposals to ask the FCC to consider an experiment to suspend enforcement of the fairness doctrine in the larger radio markets and to liberalize interpretations of the equal time rule are most welcome.

I must be candid. I believe you are not going far enough. Yet, you deserve credit for speaking publicly and bringing attention to these important issues. The citizens of this country need to know more and hear more about the constitutional questions involved in regulation of electronic journalism. Your suggestions should help to accomplish that.

Any experimental suspension of the fairness doctrine for radio stations in the larger markets carries an inherent restraint on the licensees. The very knowledge that an experiment can or will end would, in my judgment, cause the licensees voluntarily to check the robust exercise of their new freedom. But perhaps a rule could be written in which the FCC would relinquish post-experimental sanctions against programs broadcast during the experiment.

As long as the FCC is in a position to void licenses or fine licensees, there would be a chilling effect despite the experiment.

In your speech you said you "have never seen any persuasive evidence that this requirement (of the fairness doctrine to cover controversial issues of public importance) has had a 'chilling' effect on broadcast journalism . . ." I would point out that the United States Supreme Court has recognized the chilling effect of punitive damages under State libel laws. In *Gertz v. Welch*, the Supreme Court said that ". . . jury discretion to award punitive damages unnecessarily exacerbates the danger of media self-censorship . . ." That is just one example of where the Court has taken upon itself the recognition of a chilling effect.

In *Red Lion*, the Court did not rule out the possibility of a chilling effect resulting from the fairness doctrine. At one point it said ". . . if experience with the administration of these doctrines indicates that they have the net effect of reducing rather than enhancing the volume and quality of coverage, there will be time enough to reconsider the constitutional implications."

One other problem I see with an experiment is that press freedom is of an intellectual and philosophical nature. Press freedom is not an empirical problem. I believe that broadcast journalism is as much a part of the free press as is the printed press. I could cite Supreme Court cases where the two are equated, and I have in floor statements. But you seem to agree to that in the last sentence of your speech.

As for your proposal on the equal time rule, I agree wholeheartedly with what you told Senator Pastore last week, ". . . that the Commission should reverse its prior holding of 10 years ago relative to debates and press conferences by Presidents, Governors, other public officials." Yes, the equal time rule, in absence of abolition, should be liberalized in its coverage of political offices at all levels.

Again, Dick, I believe you deserve a bouquet for your concern for the first amendment. I realize that as Chairman of the FCC you cannot change the law but are required to administer it. Yet, you and your fellow Commissioners do have much power in the interpretation of the law.

I hope your proposals are adopted by the FCC and that the studies begin soon. I will welcome a copy of your Notice of Inquiry when it is issued.

With warmest wishes,
Sincerely,

WILLIAM PROXMIRE,
U.S. Senator.

INNOVATIVE CLINICAL TEACHER EDUCATION PROJECT

Mr. STONE. Mr. President, since education has been organized into schools, parents, educators and politicians have been asking:

What should these children be learning?

What skills do teachers need?

And what would be the most effective and efficient means of finding out these answers?

There is special importance in answering these questions as they relate to mildly handicapped exceptional children in public school special education classrooms.

Six years ago a cooperatively funded Federal and State project was begun at Florida State University in Tallahassee to research the problem. Now, 6 years and $750,000 of support has dramatically demonstrated that the clinical teacher can produce 1 to 3 years of academic gains in basic reading and arithmetic skills in mildly handicapped children within 1 school year.

This innovative teacher education approach was recently cited as an "exemplary manpower preparation program for the education of the handicapped" by the U.S. Office of Education.

The clinical teacher model project of Florida State University was supported by the Bureau of Education for the Handicapped as a prototype study under provisions of Public Law 91–230. It was planed as an alternative noncategorical training approach to avoid the traditional labeling practices of special education, and for future incorporation into teacher preparation programs throughout the Nation.

The project focused on the behaviors required of children identified as mildly handicapped, mentally retarded, having learning disabilities, and emotionally disturbed for their success in regular public school classes. To do this, the clinical teacher program designed standards for individualizing instruction necessary to produce these skills. These teaching tools included "observation, diagnosis, intervention, and evaluation, which enabled the clinical teacher to assess each exceptional child, prescribe, and manage a personalized instructional treatment for his or her success in reading and arithmetic."

Planning and design of the prototype curricula was conducted during 1969–71. Field testing, revisions, and evaluation of the training materials was conducted during 1971–74. In a year long follow-up study, these clinical teachers, using materials developed by the project, produced from 1 to 3 years of academic gain in handicapped children. When compared to other special education teachers serving a similar group of children, these results further substantiated the fact that the clinical teachers can greatly increase the amount and rate of academic achievement.

In addition to aiding handicapped children this project offers reinforcement to Federal and State assistance in supporting research and development for improving education. The final report of the project, containing the individualized curriculums and the documentation as to their effectiveness, is being distributed to State educational agencies and to more than 500 colleges and universities.

PROGRESS IN WEAPONS ACQUISITION REFORM: NEW WHITE HOUSE POLICY DIRECTIVE

Mr. CHILES. Mr. President, for some 2 years now, my Government Operations Subcommittee on Federal Spending Practices has been pushing to institute some basic reforms in the Federal Government's major systems acquisition—weapons acquisition in particular.

After an extensive set of hearings during June and July, the executive branch has announced its intention to try to put into effect the 12 reform proposals originally put forward by the Commission on Government Procurement.

I am pleased that the new Office of Federal Procurement Policy, OFPP, which was established by Public Law 93–400 just last year, has stepped forward to take positive action in an area of vital importance to Federal spending and programmatic effectiveness.

I appreciate only too well that the really serious actions have yet to be taken: Actually issuing a strong, waterproofed circular; and gaining effective agency implementation.

But the dates have been set. The tasks have been paid out, and, I believe, some progress is being made. The first Administrator of the OFPP, Mr. Hugh Witt, deserves to be complimented for his steps to date and helped with the more difficult ones ahead.

For the information of my colleagues, I ask unanimous consent to have printed

in the RECORD a recent press account of the proposals, and the draft circular now out for Agency comment.

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

[Excerpt from Aviation Week & Space Technology, Sept. 15, 1975]

BROAD WEAPONS POLICY SHIFT SET

(By Katherine Johnsen)

WASHINGTON.—Control over the initiation of major weapon system acquisitions would be shifted from the military services to the Office of the Secretary of Defense and Congress under a far-reaching draft policy directive by the Office of Federal Procurement Policy and issued by the White House Office of Management and Budget.

Once the Secretary of Defense determines a requirement for a new weapon system to meet a mission deficiency, and this finding is concurred in by Congress, industry would be challenged to come forth with innovative proposals to meet the mission requirement. There would be no rigid constraints on proposals.

The emphasis, the OFPP draft directive states, shall be "upon generating increased innovation, participation and conceptual competition from industry as opposed to undue reliance upon agency internally developed concepts and/or preliminary designs."

IMPLEMENTATION TIMETABLE

OFPP timetable for implementation of the directive entitled "Major Systems Acquisition," which would become governmentwide policy but is applicable primarily to the Defense Dept., is:

Formal comments from government agencies and industry are due Oct. 31.

The final directive will be published by the end of the year, including changes resulting from the outside comments.

Government agencies will be required to report to OFPP six months later on steps taken to put the directive into effect.

The directive is aimed at meeting widespread complaints in Congress, and by the General Accounting Office, that weapon systems grow for years within the military services without top-level direction by the Secretary of Defense or Congress.

It might be viewed as extending to the front end of the acquisition process the Defense System Acquisition Review Council (DSARC) procedure established by former Deputy Secretary of Defense David Packard in 1969.

DSARC comprises key officials in the Office of Secretary of Defense: director of Defense research and engineering, Defense comptroller, assistant Defense secretary for logistics and assistant Defense secretary for program analysis and evaluation.

The first formal DSARC review of a military service's major weapon system proposal, called DSARC-One, occurs when the service is seeking authority to initiate contract definition. Before this event, the service necessary has spent several years developing the proposal.

"What is needed is a DSARC-Zero," Sen. Lawton Chiles (D.-Fla.) said.

The OFPP directive would accomplish this. Under it, the services would continue to control the course of the basic research and exploratory research programs. These are not oriented toward a mission. But before a program could proceed into advanced development toward a new weapon system, the Secretary of Defense, through DSARC, would be required to make a finding on the question: Is there a requirement for the system to meet a mission deficiency or achieve a mission goal?

The mission need is to be "expressed in mission terms, not equipment terms," the directive states. "A mission need may be the result of an identified deficiency or the result of a technologically feasible opportunity."

If the secretary of Defense establishes the need for a new system, and Congress concurs, there would be a maximum solicitation of industry by the military service for innovative designs to achieve an optimal system. This procedure would mark a significant change in industry's present role of fitting system proposals into molds cast by the military services.

The OFPP directive also calls for "an improved communication with Congress" in accord with the 1974 Budget Control Act. This law requires the Defense Dept. to relate its major hardware systems to military missions, starting with the Fiscal 1979 federal budget that will be submitted in January, 1978. But the Defense Department has been working cooperatively with the House and Senate Budget committees to achieve the objective of stating funding requests in terms of mission requirements as soon as possible.

Key points made in the OFPP draft directive to maximize competition in the early conceptual phase of a system acquisition include:

"Care should be exercised during the initial steps . . . not to distort needs and goals by forcing their conformance into any known or offered systems or products that might foreclose consideration of alternative design concepts or alternative approaches under a single design concept."

"Requests for system concept design proposals shall contain explanations of the mission need, time, cost, and capability goals, and operating constraints. Each offerer shall be free to propose his own technical approach, main design features, subsystems and alternatives to time, cost and capability goals. In the conceptual . . . stages, the contractors should not be restricted by a wide spectrum of detailed government specifications and standards."

"Ideas, concepts or technology, developed by government laboratories or at government expense for which government rights have been established, may be made available to private industry. . . . Industry proposals . . . may be made on the basis of these . . . or on the basis of alternatives which industry considers superior."

"Focus competition more meaningfully on alternative design concepts as opposed to confining competition to price or performance differentiation within a single design concept."

"Increase levels of . . . early research and development funding for exploration of alternatives as relatively inexpensive insurance against the possibility that a premature or preordained choice may later prove to be either a less effective or a more costly means of fulfilling a mission need."

"Approval for development of a noncompetitively selected major system design concept should be considered only if justified by factors typified by either extreme urgency of need with only one viable approach, or physical and financial impracticality of demonstrating alternatives."

Deputy Secretary of Defense William P. Clements, Jr., concurred that the front end of the acquisition process "represents an area which has much potential for improvement," in testimony before the Senate Government Operations subcommittee headed by Sen. Chiles.

ESTABLISHED NEED

"Perhaps in the past, specific system identifications have been made to Congress too early," Clements said. "There may have been concern, after the fact, whether adequate consideration was given to other system alternatives or whether, in fact, the identified hardware system really represented a formally established need.

"Acquisition must be based on a sound understanding of the acquisition objective, and the costs with which the objective is to be achieved," Clements continued. "Further, this understanding must be shared by the Congress. Budget requests and appropriations should be tailored so that no constraint is offered to the exploration of alternative approaches for the satisfaction of a formally approved mission deficiency."

The OFPP directive is the outgrowth of a $7-million three-year study of federal procurement by the Commission on Government Procurement. In its final report in December, 1972, the commission proposed establishment of OFPP to implement its other recommendations.

The OFPP legislation was enacted last year, and Hugh E. Witt, formerly principal deputy assistant Defense secretary to the assistant secretary of Defense for logistics, was confirmed by the Senate as the first OFPP administrator on Dec. 31, 1974. OFPP reports directly to both Congress and OMB.

Sen. Chiles and Comptroller General Elmer B. Staats were members of the 1969–72 procurement commission.

In testimony to the Chiles subcommittee, firmly supporting the OFPP directive, Staats said: "Under current Defense Dept. policy, spelled out in Directive 5000.1, the military services determine their own needs for major acquisitions and they start acquisition programs several years before the secretary of Defense is asked to approve the program . . .

"For example, during a five-year period, preceding the first secretary of Defense decision, the Air Force spent about $140 million on studies to develop the operational requirements and specifications for the B–1."

Other systems preselected by the services without adequate consideration of competitive alternatives and before formal decision by the Secretary of Defense and Congress include the Navy/Grumman F–14, USAF Lockheed C–5A and USAF/McDonnell Douglas F–15, Staats said. He continued:

"The military service activity that leads to the secretary of Defense's initial approval is lengthy and informal and provides little visibility over how and why these early decisions were made. A major part of the program cost is preset by these early technical decisions on the system solution and its performance characteristics. And, there is usually no further competitive challenge to the system. While the agency head [secretary of Defense], the OMB, the Congress, and much cost, schedule and performance monitoring do enter the picture, they are all too late to do much about the program, except to question implementation details."

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., August 28, 1975.

HON. LAWTON CHILES,
Chairman, Subcommittee on Federal Spending Practices, Efficiency, and Open Government, Dirksen Building, Washington, D.C.

DEAR MR. CHAIRMAN: During my appearance before your subcommittee in July, I submitted a draft OMB policy circular on major system acquisitions which was subsequently distributed to key executive agencies, industry associations, the GAO, and others for informal review.

As a result of the hearings you conducted and the informal comments we received, the attached circular has been considerably revised. Distribution has been made within the executive branch, to industry associations and to various individuals for formal comment. As indicated in the attached circular transmittal letter, we have asked for response by October 31.

We will keep you informed of our progress in establishing a uniform major system acquisitions policy within the executive branch.

Sincerely,

HUGH E. WITT,
Administrator for Federal Procurement Policy.

Attachment.

[From the Office of Management and Budget, Washington, D.C., Aug. 28, 1975]

To the heads of Executive Departments and establishments.

Subject: Request for comments on draft of Major System Acquisition Circular.

Attached is a copy of a draft circular on major system acquisitions for your review and comments. This is the result of informal comments on the previous drafts, the recent hearings of Senator Chiles' Subcommittee on Federal Spending Practices, Efficiency and Open Government, and deliberations within the Office of Federal Procurement Policy (OFPP). The circular is based on findings and conclusions growing out of executive branch consideration of the recommendations of the Commission on Government Procurement.

We would appreciate a response prior to close of business, Friday, October 31, 1975, so that we may incorporate appropriate revisions.

HUGH E. WITT,
Administrator for Federal Procurement Policy.

Attachment.

[From the Executive Office of the President, Office of Management and Budget, Washington, D.C., Circular No. A–]

To the heads of Executive Departments and establishments.

Subject: Major System Acquisitions.

1. *Purpose.* This Circular establishes policy to be followed in the acquisition of major systems from federally appropriated funds.

2. *Authority.* The "Office of Federal Procurement Policy Act," Public Law 93–400, 41 U.S.C. 401 *et seq*, the Budget and Accounting Act, 1921, the Budget and Accounting Procedures Act of 1950, Reorganization Plan No. 2 of 1970, and Executive Order 11541, July 1, 1970.

3. *Background.* The acquisition of major systems by the Federal Government constitutes one of the most important, vital, and expensive activities performed in the Nation. Its impact on the accomplishment of Government agency missions in such areas as defense, space, energy, and transportation, and on technology and the Nation's economy is critical. For a number of years, concern has been expressed by private citizens, Members of Congress, and representatives of industry regarding the effectiveness of the management of major system acquisitions. The report of the Commission on Government Procurement recommended fundamental changes in the process of acquiring major systems. This Circular is based on findings and conclusions growing out of executive branch consideration of the Commission's recommendations.

4. *Responsibility.* Each agency head shall insure that the policy provisions of this Circular are followed.

5. *Application.* This Circular applies to the management of the acquisition of major systems including: analysis of the agency mission, determination of mission needs and the setting of mission goals, system acquisition planning, programming, budgeting, funding, research, engineering, development, testing and evaluation, contracting, production, program control, and introduction of the system into use. The Circular is applicable to such acquisition programs even though some agencies may not have full responsibility for each of these functions. For instance, an agency may not procure systems for its own use but instead may create optional demonstration hardware for private sector choice, or may procure one-of-a-kind systems. Such variations do not justify the exclusion of programs from the management concepts of this Circular.

6. *Definitions.* As used in this Circular:

a. *"Agency head"* means the head or deputy head of an executive agency.

b. *"Executive agency"* means an executive department or an independent establishment within the meaning of sections 101 and 104 (1), respectively, of Title 5, United States Code.

c. *"Agency component"* means a major organizational subdivision of an executive agency. For example, the Army, Navy, Air Force, and Defense Supply Agency are agency components of DOD; the Federal Aviation Administration, Urban Mass Transportation Administration, and the Federal Highway Administration are agency components of DOT.

d. *"Mission need"* means within an agency's overall purpose a desired capability, including cost and schedule considerations, expressed in mission terms, not equipment terms. A mission need may be the result of an identified deficiency or the result of a technologically feasible opportunity.

e. *"Major system"* means equipment, construction or other improvements of real property, and related programs involving the acquisition process which meet an agency mission need of sufficient importance to warrant the allocation of large dollar resources or special management attention. Dollar thresholds and other criteria for the determination of agency programs to be considered major systems under the purview of this Circular shall be at the discretion of the agency head.

f. *"Acquisition process"* means the sequence of activities starting with reconciliation of mission needs and goals with capabilities, priorities and resources, and extending through the introduction of a system into operational use or the otherwise successful achievement of program objectives.

7. *General policy.* The guidelines of this Circular are designed to work as an integrated whole toward the improvement of the effectiveness and efficiency of the major system acquisitions process. They are based on the general policy that Federal agencies when acquiring major systems shall:

a. Establish needs and goals based on broad agency mission definition.

b. Perform planning, programming, and budgeting built on analysis of needs, goals and missions which implies: better resource allocation resulting both from improved agency articulation of missions and goals, and from improved communication with Congress in accord with the Congressional Budget Act of 1974, Public Law 93–344 (31 U.S.C. 1301).

c. Create and explore alternative system solutions within the broad agency "mission" context—with emphasis upon generating increased innovation, participation, and conceptual competition from industry as opposed to undue reliance upon agency internally developed concepts and/or preliminary designs.

d. Increase levels of agency early R&D funding for exploration of alternatives as relatively inexpensive insurance against the possibility that a premature or preordained choice may later prove to be either a less effective or a more costly means of fulfilling a mission need.

e. Focus competition more meaningfully on alternative design concepts as opposed to confining competition to price or performance differentiation within a single design concept.

f. Choose a final system from among alternative systems that are honed by a competitive development environment.

g. Manage systematically the entire requirements determination/development/production process.

h. Provide appropriate managerial level for decisionmaking and an improved management hierarchy of authority, responsibility and accountability.

i. Provide strong checks and balances for systems destined for production through a test and evaluation organization independent of develolper and user.

8. *Management objectives.*

a. A major system acquired by the Government must fulfill a mission need, be affordable, operate effectively in its intended environment, and demonstrate a performance level and reliability that justify the allocation of resources to its acquisition, ownership, and support. Efforts shall be made to minimize life cycle costs by including the appropriate use of technology, means to promote competition, and incentives to achieve reliability of the system in its operating environment.

b. An "acquisition strategy" must be tailored for each individual system program as soon as a determination is made to solicit design concepts which could lead to the acquisition of a new major system. Such strategy should include test and evaluation criteria and business management considerations such as: the timing of essential elements of the acquisition process, the content of proposal solicitations, whom to solicit, methods for obtaining and sustaining competition, data rights, use of warranties, need for developing contractor incentives, and selection of contract types. The contracting process should be recognized as an important tool in system acquisitions.

9. *Management structure.*

a. Each agency that acquires major systems, or is responsible for the activities leading to the acquisition of major systems, shall have an acquisition executive, designated by the head of the agency, who shall be responsible for the agency's integrated acquisition management process and for monitoring policy implementation and practice under this Circular. There shall be clear channels of delegation of responsibility and authority within the agency's acquisition management process. Technical and program decisions normally should be made at the operating activity or component level with clear channels of accountability within the agency. However, the following key approval decisions should be retained by the agency head:

(1) Mission need and the goals that an acquisition program is to achieve.

(2) Selection of competitive candidate systems for demonstration, or noncompetitive (single concept) system development.

(3) Full-scale system development and limited production.

(4) Full production release.

b. Major system acquisition programs shall be managed by a program manager, who should be designated when a decision is made to fulfill a mission objective by pursuing design concept alternatives and who, with satisfactory performance, should be retained for a sufficient period to provide reasonable continuity and personal accountability. Program managers should have an understanding of user needs and constraints, familiarity with development principles, and program management skills and experience in the following functional areas where applicable: research and development, operations, engineering, construction, testing, contracting, prototyping and fabrication of complex systems, production, finance, and business. A program manager shall have a written charter which provides authority to accomplish recognized program objectives.

c. Each agency shall rely, to the greatest extent possible, on competitively derived concepts and designs, and shall insure that management layering, staff reviews, reporting pro-

cedures and paperwork requirements placed on program managers and contractors are minimized.

d. Each agency shall develop the capability to predict, review and control costs for system development, engineering, design, test, production, and operation and support (i.e., life cycle costs). Costs, schedules and performance shall be tracked against predictions and examined by the agency head at key decision points, and new cost/schedule/benefit analyses shall be performed where significant cost, schedule or performance variances occur. Life cycle cost techniques shall be employed during concept evaluation and selection, full-scale development, facility conversion, and production, to insure identification and achievement of the lowest lifetime costs in consonance with the capability being acquired.

e. Joint interagency working groups should be established where appropriate as a means to advance technology and reduce system costs, promote standardization and enhance the development of a competitive acquisition environment.

10. *Mission needs and goals.*

a. Initiation of all major system acquisition programs should be based on an analysis of an agency's mission and a determination of needs and goals reconciled with overall capabilities, priorities and resources. If analysis of an agency's mission shows that a need for a major system exists, such a need should be defined in terms of the mission objective, agency components involved, capability, schedule and cost goals, and operating constraints. Benefits to be derived should be optimized by competitive exploration of alternatives and trade-offs of capability goals, time, and cost. Care should be exercised during the initial steps of the acquisition process not to distort needs and goals by forcing their conformance to any known or offered systems or products that might foreclose consideration of alternative design concepts or alternative approaches under a single design concept.

b. Agencies having more than one component may complete the concepts and developments traditionally assigned to each in order to consider innovative approaches and select the most technically suitable and most cost effective approach to fulfilling a mission deficiency.

c. Each agency should maintain a strong technology base by conducting, supporting, or sponsoring basic research, applied research, system concept studies, proof of concept work, exploratory subsystem development, and tests and evaluations in both the private sector and Government in-house technical centers relevant to the agency's assigned responsibilities.

11. *Alternative systems.*

a. System concept design alternatives shall be solicited from all competent qualified sources in order to achieve the optimum system through encouraging innovation and competition. Conceptual designs are to be primarily solicited from private industry, including smaller businesses. Federal laboratories, federally funded research and development centers, educational institutions, and other not-for-profit organizations may also be considered as sources for conceptual system designs.

b. Ideas, concepts, or technology, developed by Government laboratories or at Government expense for which Government rights have been established, may be made available to private industry through the procurement process. Industry proposals to the agency may be made on the basis of these ideas, concepts, or technology or on the basis of alternatives which industry considers superior. Requests for system concept design proposals shall contain explanations of the mission need, time, cost, and capability goals, and operating constraints. Each offerer shall be free to propose his own technical approach, main design features, subsystems, and alternatives to time, cost, and capability goals. In the conceptual and less than full-scale development stages, the contractors should not be restricted by a wide spectrum of detailed Government specifications and standards. Selections from competing proposals shall be based on a review by a team of experts from inside and outside the agency component development organization. Such a review shall consider proposed system functional and performance capabilities to meet mission needs, resources required, and benefits to be derived by trade-offs of technical performance, acquisition costs, ownership costs, time to develop and procure and the accomplishment record of competitors.

c. During the uncertain period of identifying and exploring alternative system concepts, contracts covering relatively short time periods at planned dollar levels shall be used. A timely technical review of alternative concepts will be made to effect the orderly elimination of those least attractive.

d. Programs shall be structured and resources allocated to insure demonstration and evaluation of competing alternative concepts to mission accomplishments wherever economically feasible, including competition between similar or differing concepts throughout the entire acquisition process. Contractors shall be provided with operational test conditions, mission performance criteria, and lifetime ownership cost factors that will be used by the agency in the evaluation and selection of the system(s) for full-scale development and production.

e. Appropriate interaction between agency representatives with relevant operational experience and participating contractors should be encouraged as necessary in developing performance and other requirements for each system alternative as tests and trade-offs are made.

f. Development of subsystems which are intended to be included in a major system acquisition program shall be restricted to less than fully designed hardware (full-scale development) until the subsystem is identified as a part of a system candidate for full-scale development. Exceptions may be authorized by the agency head if the subsystems are long lead time items fulfilling a recognized generic need or if they have a high potential for common use among several existing or future systems.

g. Approval for development of a noncompetitively selected major system design concept should be considered only if justified by factors typified by either extreme urgency of need with only one viable approach, or physical and financial impracticality of demonstrating alternatives.

12. *Full-scale development and production.*

a. Full-scale development, including limited production, shall not be approved until agency mission needs and goals are reaffirmed and competitive demonstration results prove that the chosen technical approach is sound.

b. Full production shall not be approved until agency mission needs and goals are reaffirmed. In addition full production shall not be approved until system performance has been satisfactorily tested independent of the agency development and user organizations, and evaluated in an environment that assures demonstration in expected operational conditions. Exceptions to the independent testing portions of this policy may be authorized by the agency head if a cost benefit analysis shows that release of a system to production is clearly justified.

c. Selection of a system and system contractors for full-scale development and production should be made on the basis of: (1) system performance measured against current mission needs; (2) an evaluation of estimated costs of system development, production, operation, and support; (3) program schedule; and (4) the contractor's proven management, financial, and technical capabilities as related to the requirements of the contract.

d. System tests and contractor performance relative to meeting system performance, cost, and schedule commitments shall be monitored by the program manager. Significant actual or forecast variances shall be brought to the attention of the appropriate management authority for corrective action. The acquisition executive shall be informed of such variances and corrective actions.

13. *Budgeting and financing.* The agency's research and development budget should reflect an appropriate balance between the general technology base in support of the agency's overall mission and the technology in support of specific mission areas. Agencies shall insure that the research and development budget is developed and allocated in consonance with mission area needs and goals. Each agency should insure that research and development is not undesirably duplicated across its mission areas.

14. *Information to Congress.*

a. Agencies shall develop procedures, in conjunction with the Office of Management and Budget and the various committees of Congress having oversight responsibility for agency functional responsibilities, to inform Congress in the normal budget process about agency missions, capabilities, deficiencies and needs and goals related to new acquisition programs in consonance wtih Section 601(1) of the Congressional Budget Act of 1974, Public Law No. 93-344.

b. Disclosure of the basis for noncompetitive and undemonstrated system concept selections shall also be made to the appropriate congressional committees in the normal budget process.

15. *Implementation.* Agency guidelines or policy directives implementing this Circular shall be furnished the Administrator for Federal Procurement Policy (OMB) for review. Within six months after the date of release of the Circular, each agency shall develop and submit to the Administrator for Federal Procurement Policy (OMB) a time-phased plan for meeting the requirements of this Circular. During this period, the agencies shall work with the Administrator to resolve implementation problems.

JAMES T. LYNN,
Director.

AUTO EMISSION STANDARDS

Mr. ABOUREZK. Mr. President, we in Congress are being asked to delay auto emission standards. Increasing concerns due to the energy situation and recession have caused many to reevaluate our dedication to improving the quality of the air we breathe.

But clean air cannot be a concern only in good times.

Any standards must leave room for the shortcomings of emission technology, but suspensions of the standards should be limited to those cases in which technology is shown lacking.

I do not feel that we are presently facing such a situation. Much progress has been made in the technology for reducing emissions, but very little has been done about getting the devices installed on cars. Instead, American car makers continue to apply for extension after extension. On March 5, 1975, the Administrator of the EPA, Russell Train, suspended the 1977 auto emission standards,

and recommended that the Federal standards, which are considerably tougher, be suspended also.

I feel that he was wrong in doing so because: First, a suspension will inhibit further development of several forms of new technology; second, the production of new devices and the incorporation of new designs can move faster than stated—they certainly do not have to be suspended as long as Mr. Train suggests, since the technology is available; and third, cleaner air is a necessity, and I do not feel that momentum we have already established should be lost.

The foreign manufacturers have shown that with responsibility, cleaner air can be achieved by implementing new technology. The American car makers have shown that they will not take any initiative until they are forced to. Then, after they have grudgingly complied, their ads dance across our papers and televisions showing what grand and glorious deeds they have done in service of the country.

If we continue to grant suspensions, we will allow the auto manufacturers to continue to fail to develop new systems, and may see the virtual end of the technology now being developed. The American car makers must put their efforts into solving the emissions problem, not avoiding it.

In direct contrast to the American car manufacturers, their foreign counterparts have been responsible in developing systems to improve emissions. In fact, they have left the American manufacturers far behind in applied technology.

Many foreign companies are utilizing alternative engines. Toyo Kogyo—Mazda—uses a rotary engine, which has low sulfate emissions; all domestic companies have dropped all plans for rotary engines. Honda has developed a stratified charge engine—CVCC—which delivers the best fuel economy when set for more stringent emission standards, and which is thought capable of great improvements; no domestic manufacturer plans to use it. Several foreign manufacturers, especially Mercedes-Benz, have developed diesel engines, which are capable of meeting the HC and CO standards effortlessly, and have excellent fuel economy; no domestic manufacturer plans to use it. GM produces a diesel car—but sells it only in Europe.

The foreign manufacturers have pursued other methods to reduce emissions. They have done extensive work with the catalyst, which is the most effective way to reduce emissions at this time.

The catalyst is the reason that Train suspended the standards. It was found that the catalyst produced sulfuric acid in small amounts, and the EPA felt that the sulfuric acid emissions created enough of a threat to warrant suspension of the standards. However, recent findings have indicated that the EPA overreacted. Dr. Robert Sansom, formerly of the EPA, said that the fears are groundless, and that the standards need not be suspended. Other sources have concurred, including the National Academy of Science's National Research Council.

There has been a distinct lack of investigation into the possibilities of a new "three-way catalyst," which has shown to be effective in reducing even sulfuric acid emissions. Again, the foreign companies have shown their willingness to experiment. A Volvo car, equipped with a three-way catalyst, was tested and proved to have extremely low sulfate emissions, while maintaining acceptable fuel economy.

Also, the foreign manufacturers have always utilized smaller cars—and Toyo Kogyo and Volvo plan to introduce new, smaller cars. As a rule, the smaller the car, the easier it is to improve both fuel economy and emissions. I wish that the domestic manufacturers had the same sense of competition and responsibility that the foreign companies have so readily displayed.

I am not against American companies. I am only surprised that the American car makers have allowed themselves to be surpassed to such a degree. Regardless of where a company is based—American or foreign—I think that it has a duty to keep its cars clean, and to do its best to advance and implement new technology.

If we now allow the emission standards to go unheeded, we stand a good chance of losing the momentum we worked so hard to achieve. We cannot let the auto manufacturers have their way when in the suspension hearings they had an attitude which led Train to say—

Either the auto companies are already confident of their ability to achieve the standards, or . . . they do not believe that the standards will be enforced.

In either case, we cannot let the auto makers escape their responsibilities. If the technology exists, and the foreign car companies have shown us that it does, then it is the responsibility of the companies to use it to keep their cars from polluting our air any more.

I joined in the successful efforts to repeal the interlock law, and will continue to oppose oppressive standards which do not serve the public interest. But clean air is not frivilous or repressive. Americans have a right to a car which is clean, economical and safe. We also have a responsibility to protect Americans from having their health and well-being senselessly jeopardized.

I ask unanimous consent that an article which appeared in the New York Times June 5, reporting the findings of the National Academy of Science's National Research Council on the proposal to relax emission standards, be printed in the RECORD.

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

RESEARCHERS BACK STRICT RULES ON ACID EXHAUSTS FOR 1978 CARS

(By Harold M. Schmeck, Jr.)

WASHINGTON, JUNE 4.—There is no need for delay beyond 1978 in applying strict standards for automobile exhaust emissions, a report from a special committee of the National Research Council said today.

The delays had been sought by the auto industry and, earlier this year, by the Environmental Protection Agency. The agency then said that newly recognized problems with sulphuric acid emissions from catalyst-equipped cars warranted a delay of several years.

The report made public today said that a strict standard for sulphuric acid emissions could and should be set for 1978 model cars and that the existing Federal statutory standards for hydrocarbons and carbon monoxide gas for 1978 should go into effect as scheduled.

Attaining the statutory levels for hydrocarbons and carbon monoxide is both feasible and worthwhile, said the report.

"These levels can be achieved while steps are taken to insure against excessive emissions of sulfuric acid and acid sulfates," it said.

FUEL ECONOMY

The council's report said that these and other recommendations it had made could be achieved while improving automobile fuel economy. The report said that there was no evidence to justify relaxing standards for the federally regulated pollutants.

The report was less emphatic concerning another class of auto emission pollutants—the oxides of nitrogen. It said the members of the committee that had drafted the report had not all agreed as to whether the benefits of achieving the 1978 standards for nitrogen oxides were worth the cost.

In its recommendations the committee said that adherence to the statutory 1978 standards would discourage the development of new and better technologies that could be available only for limited production for the 1978 model year.

If the nitrogen oxide standard is kept, the report said, a "two-car strategy" should be adopted nationally. This would require that vehicles registered and used in areas that have severe pollution problems meet stricter standards than cars used in areas where the air is cleaner.

The report also called for study of the health effects of other, currently unregulated, pollutants from motor vehicles. The document said there was a need to develop emission standards and more effective controls for pollution sources, other than light-duty autos, that emit hydrocarbons, carbon monoxide and sulphuric acid.

AREAS OF CONCERN

"Of particular concern," it said, "are exhaust emissions from heavy-duty vehicles and motorcycles, evaporative emissions from vehicles and emissions from various stationary sources."

An E.P.A. spokesman said today that the agency welcomed the new information provided by the report and was willing to take a flexible attitude toward emission standards in the light of data and analyses that are becoming available.

A spokesman for Chrysler Motors Corporation said that the company had not seen the report, but that the standards proposed "would cause a significant fuel economy penality and would put the national goal of a 40 to 50 per cent improvement in fuel economy by 1980 far beyond our reach."

DECLINE TO COMMENT

The Ford and General Motors auto corporations declined to comment, saying they had not yet studied the new report.

Hearings have been held this spring in the Senate on auto emission standards. A House subcommittee, which has also held hearings, is marking up a bill. Its chairman, Representative Paul Rogers, Democrat of Florida, predicted that the committee would finish its work in about two weeks. He said that the research council's report was encouraging in that it said the strict standards could and should be met.

The National Research Council is the operating arm of the National Academy of Science and the National Academy of Engineering, private organizations of leading scientists and engineers chartered to advise the Federal Government.

The Federal emission standards scheduled to go into effect in 1978 would require cars

of that model year to emit less than one-third the amount of hydrocarbons permitted for 1975–76 model cars. The cut in emissions would be even greater for carbon monoxide.

For nitrogen oxides the 1978 limit would be about two thirds of the current permissible level. In California, emission limits have been more strict than the Federal standards both for current models and 1978 cars.

FREEDOM OF INFORMATION: DECIDED CASES

Mr. KENNEDY. Mr. President, the Freedom of Information Act continues to generate substantial support among the public and press who have found agency doors opening more swiftly when the law is invoked to support access to government records. Last week I inserted in the RECORD a list of pending cases involving the Freedom of Information Act—September 10, page 28428. The length of the list unfortunately suggests that many agencies may still be taking a "sue me" attitude toward information.

The cases alerady decided under the Freedom of Information Act provide an invaluable reservoir of interpretation and guidance for both agency officials and the public in terms of availability of information. This past summer the Department of Justice collected the cases decided under the act and referenced the exemption or other issue involved in the case. Because this compilation is not generally distributed by Justice, I ask unanimous consent that the entire list be printed in the RECORD.

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

FOI CASE LIST—JUNE 1975 EDITION

(An alphabetical list of court decisions on the Freedom of Information Act, 5 U.S.C. 552, including cases with opinions not yet reported, with notations as to the exemptions or other issues involved in each case.)

Notice to Agency Counsel and Other Users:

Previous editions of this list included reported decisions, with a separate addendum for unreported opinions. With this edition, the reported cases and those with unreported opinions have been combined in a single alphabetical list.

Distribution of previous editions of this list was made to agency counsel and others upon request, with special distributions at symposiums or the like. With this edition, a mailing to agency counsel has been added, as a prompter method of distribution. *General Counsels are urged to make this list promptly available to lawyers in their agencies who handle Freedom of Information matters.* Agencies are also requested to make their own duplicates of this list as necessary.

The present edition of this list includes reported opinions through 389 F. Supp. No. 1 and 511 F. 2d No. 1. The cut-off date for research on unreported opinions was May 15, 1975, but it should not be assumed that all unreported opinions issued prior to that date have been included.

In this edition, the complete list is followed by (a) a special list of all FOI opinions issued since the prior case list was compiled (Dec. 1, 1974) and (b) a special list of reverse FOI cases. Reverse FOI cases are those in which a private party has sued to prevent disclosure by an agency of the Government, as opposed to the usual case in which a private party sues to compel disclosure.

It is contemplated that future editions of this list will be prepared several times a year. Comments, corrections, and suggestions for improvements in this list are invited, and may be sent to the Office of Legal Counsel (Attention: Chairman FOI Committee), Department of Justice, Washington, D.C. 20530.

X5, 6—*Ackerly* v. *Ley*, 420 F. 2d 1336 (D.C. Cir. 1969).

X5—*American Mail Line, Ltd.* v. *Gulick*, 411 F. 2d 696 (D.C. Cir. 1969).

X7—*Anchorage Building Trades Council* v. *HUD*, 384 F. Supp. 1236 (D. Alaska 1974).

X5, 7—*Ash Grove Cement Co.* v. *FTC*, 371 F. Supp. 370 (D.D.C. 1973), *remanded* 511 F. 2d 815 (D.C. Cir. 1975).

X5, 7—*Aspin* v. *Department of Defense*, 348 F. Supp. 1081 (D.D.C. 1972), *aff'd* 491 F. 2d 24 (D.C. Cir. 1973).

X3—*Association of American Railroads* v. *United States*, 371 F. Supp. 114 (D.D.C. 1974).

a(2), X5—*Astro Communications Laboratory* v. *Renegotiation Board*, Civ. No. 2403–70 (D.D.C., filed May 6, 1974).

Prohibiting termination of agency proceeding pending resolution of FOI request—*Automobile Club of Missouri* v. *NLRB*, Civ. No. 924–73 (D.D.C., decided May 15, 1973), to be found in 71 CCH Lab. Cas. ¶ 13,672.

Exhaustion of adm. remedies—*Aviation Consumer Action Project* v. *CAB*, 370 F. Supp. 945 (D.D.C. 1972), *aff'd* 480 F. 2d 1195 (D.C. Cir. 1972).

a(3), X3, 5, 7—*B & C Tire Co., Inc.* v. *IRS*, 376 F. Supp. 708 (N.D. Ala. 1974).

Enjoining agency proceeding pending resolution of FOI suit, a(3)—*Bannercraft Clothing Co.* v. *Renegotiation Board*, 466 F. 2d 345 (D.C. Cir. 1972), *rev'd and remanded* 415 U.S. 1 (1974).

X4, 7—*Barceloneta Shop Corp.* v. *Compton*, 271 F. Supp. 591 (D. Puerto Rico 1967).

Enjoining agency proceeding pending examination by plaintiff of a(2) indices—*Bayview Associates* v. *NLRB*, Civ. No. 74–1825 (D.D.C., decided Dec. 20, 1974), to be found in 75 CCH Lab. Cas. ¶10,524.

X7—*Black* v. *Cheraton Corp. of America*, 371 F. Supp. 97 (D.D.C. 1974).

X2, 4, 5—*Benson* v. *General Services Administration*, 289 F. Supp. 590 (W.D. Wash. 1968), *aff'd* 415 F. 2d 878 (9th Cir. 1969).

X7—*Benson* v. *United States*, 309 F. Supp. 1144 (D. Neb. 1970).

Discovery—*Bodner* v. *FTC*, Civ. No. 74–1189 (D.D.C., filed Oct. 31, 1974), to be found in 74–2 CCH Trade Cas. ¶74,289.

Vaughn v. *Rosen* index requirement—*Bodner* v. *FTC*, Civ. No. 74–1189, to be found in 1975 CCH Trade Cas. ¶60,118 (D.D.C., filed Jan. 9, 1975).

X5—*Bodner* v. *FTC*, Civ. No. 74–1189 (D.D.C., filed Feb. 24, 1975).

X3—*Brandon* v. *Sampson*, Civ. No. 73–2232 (D.D.C., filed April 24, 1974).

X4, 5, 7—*Bristol-Myers Co.* v. *FTC*, 284 F. Supp. 745 (D.D.C. 1968), *rev'd* 424 F. 2d 935 (D.C. Cir. 1970), *cert. denied*, 400 U.S. 824 (1970).

X4, 5—*Brockway* v. *Department of the Air Force*, 370 F. Supp. 738 (N.D. Iowa 1974). See Addendum, p. 15 below.

a(3), X7—*Center for Nat. Policy Review on Race & Urban Issues* v. *Richardson*, Civ. No. 2177–71 (D.D.C., filed Dec. 8, 1972), *rev'd* 502 F. 2d 370 (D.C. Cir. 1974) (v. *Weinberger*).

X6—*Chappell* v. *Hodgson*, Civ. No. 15,480 (D. Conn., filed July 23, 1973).

X4, reverse FOI case—*Charles River Park "A", Inc.* v. *HUD*, 360 F. Supp. 212 (D.D.C. 1973), *remanded* Civ. No. 73–1930 (D.C. Cir., decided March 10, 1975).

a(1), (2), (3), X2, 5—*City of Concord* v. *Ambrose*, 333 F. Supp. 958 (N.D. Cal. 1971).

X7—*Clement Brothers Co.* v. *NLRB*, 282 F. Supp. 540 (N.D. Ga. 1968), *aff'd* 407 F.2d 1027 (5th Cir. 1968).

X3, 4, 5, 7—*Cogswell* v. *FDA*, Civ. No. 51990–ACW (N.D. Cal., filed June 5, 1970).

X5—*Comey* v. *AEC*, Civ. Nos. 73–1258, 73–1358 (7th Cir., decided July 27, 1973).

FOI suits brought in D. Cts., not Cir. Ct.—*Commercial Envelope Mfg. Co.* v. *S.E.C.*, 450 F.2d 342 (2d Cir. 1971).

X7—*Committee to Investigate Assassinations, Inc.* v. *Department of Justice*, Civ. No. 71–1829 (D.C. Cir., decided Oct. 24, 1973).

X4—*Consumers Union* v. *Federal Reserve System*, Civ. No. 1766–73 (D.D.C., filed May 31, 1974).

X2, 4, 5—*Consumers Union* v. *Veterans' Administration*, 301 F. Supp. 796 (S.D. N.Y. 1969), *dis'd as moot* 436 F.2d 1363 (2d Cir. 1971).

X2, 5. 7—*Control Data Corp.* v. *FTC*, No. 4–74–Civ.–25 (D. Minn., filed May 3, 1974).

Ct. records are not agency records—*Cook* v. *Willingham*, 400 F. 2d 885 (10th Cir. 1968).

X7—*Cooney* v. *Sun Shipbuilding & Drydock Co.*, 288 F. Supp. 708 (E.D. Pa. 1968).

Declaratory relief—*Consumers Union* v. *Interstate Commerce Comm'n.*, to be found in 1975 CCH F. Carr. Cas. ¶ 82,528 (D.D.C., decided Aug. 13, 1974).

Declaratory relief, X4, 7—*Consumers Union* v. *Saxbe*, Civ. No. 921–73 (D.D.C., decided May 9, 1974), to be found in 1974 CCH Trade Cas. ¶ 75,057.

X7—*Cowles Communications, Inc.* v. *Department of Justice*, 325 F. Supp. 726 (N.D. Cal. 1971).

X2, 5—*Cuneo* v. *Schlesinger*, 338 F. Supp. 504 (D.D.C. 1972), *rev'd and remanded in part* 484 F.2d 1086 (D.C. Cir. 1973), *cert. denied*. 415 U.S. 977 (1974).

X3, 4—*Cutler* v. *CAB*, 375 F. Supp. 722 (D.D.C. 1974).

Fees—*Diapulse Corp.* v. *FDA*, 500 F.2d 75 (2d Cir. 1974).

X5, 7, discovery—*Distillery, Rectifying, Wine and Allied Workers* v. *Miller*, Civ. No. 7069 (W.D. Ky., decided May 17, 1972), to be found in 68 CCH Lab. Cas. ¶ 12,750.

X3, 4, 5, 7—*Ditlow* v. *Volpe*, 362 F. Supp. 1321 (D.D.C. 1973), *rev'd* 494 F.2d 1073 (D.C. Cir. 1974). (*Ditlow* v. *Brinegar*)

X4, 6—*Ditlow* v. *Schultz*, 379 F. Supp. 326 (D.D.C. 1974).

X1—*Epstein* v. *Resor*, 296 F. Supp. 214 (N.D. Cal 1969), *aff'd* 421 F.2d 930 (9th Cir. 1970), *cert. denied* 398 U.S. 965 (1970).

X5—*Equal Employment Opportunity Comm'n* v. *Los Alamos Construction, Inc.* 382 F. Supp. 1373 (D. New Mexico 1974).

a(3), X7, exhaustion of administrative remedies—*Etheridge* v. *IRS.*, Civ. No. 19460 (N.D. Ga., decided March 12, 1974), to be found in 74–1 U.S.T.C. ¶ 9354.

X4—*Ethyl Corp.* v. *EPA*, 478 F.2d 47 (4th Cir. 1973).

X3—*Evans* v. *Department of Transportation*, 446 F.2d 821 (5th Cir. 1971).

"Identifiable records", X5, 7—*Exxon Corp.* v. *FTC*, 384 F. Supp. 755 (D.D.C. 1974).

Ct. not entertain FOI suit until complaint filed—*Farrell* v. *Ignatius*, 283 F. Supp. 58 (S.D. N.Y. 1968).

X4, 5—*Fenster* v. *Fletcher*, Civ. No. 822–71 (D.D.C., filed Aug. 16, 1972).

X4, 5—*Fisher* v. *Renegotiation Board*, 473 F.2d 109 (D.C. Cir. 1973), *on remand* 355 F. Supp. 1171 (D.D.C. 1973).

X4, 5, 7—*Frankel* v. *SEC*, 336 F. Supp. 675 (S.D. N.Y. 1971), *rev'd* 460 F.2d 813 (2d Cir. 1972), *cert. denied* 409 U.S. 889 (1972).

X3—*Fruehauf Corp.* v. *IRS.*, 369 F. Supp. 108 (E.D. Mich. 1974).

X5, "agency"—*Gates* v. *Schlesinger*, 366 F. Supp. 797 (D.D.C. 1973).

X4, 7—*Getman* v. *NLRB*, 450 F. 2d 670 (D.C. Cir. 1971), *app'l for stay of order den.* 404 U.S. 1204 (1971).

X5—*Ginsburg* v. *Richardson*, 436 F.2d 1146, 1152–53 (3rd Cir. 1971).

X4, 7—*Green* v. *Kleindienst*, 378 F. Supp. 1397 (D.C. Cir. 1974).

Ct. not entertain FIO suit until complaint filed.—*Grissom* v. *NLRB*, 364 F. Supp. 1151 (M.D. La. 1973).

X3, 4, 5—*Grumman Aircraft Engineering Corp.* v. *Renegotiation Board*, 425 F. 2d 578 (D.C. Cir. 1970), *on remand* 325 F. Supp. 1146

(D.D.C. 1971), *aff'd* 482 F.2d 710 (D.C. Cir. 1973), *rev'd* 43 U.S.L.W. 4502 (U.S. April 28, 1975).

X7—*Harbolt* v. *Alldredge*, 464 F.2d 1243 (10th Cir. 1972).

Exhaustion of administrative remedies—*Hartford Fire Ins. Co.* v. *NLRB*, Civ. No. 74–255 (D.D.C., decided March 1, 1974), to be found in 73 CCH Lab. Cas. ¶14,409.

X2—*Hawkes* v. *IRS*, Civ. No. C–70–409 (W. D. Tenn., filed July 21, 1971), to be found in 71–2 U.S.T.C. ¶9640, *rev'd and remanded* 467 F.2. 787 (6th Cir. 1972), *on remand* Civ. No. C–70–409 (W.D. Tenn., filed Nov. 5, 1973), *aff'd* 507 F.2d 481 (6th Cir. 1974).

X2—*Hicks* v. *Freeman*, 397 F. 2d 193 (4th Cir. 1968).

a(2), X2, 5—*Hogan* v. *United States*, Civ. No. 73–1385 (S.D. Fla., decided Jan 25, 1974).

X7—*Holiday Magic, Inc.* v. *FTC*, Civ. No. 1878–72 (D.D.C., filed March 16, 1973).

X3 (42 U.S.C. § 2000e), 4, delegation of responsibility for promulgation of regulations, reverse FOI case—*Hughes Aircraft Co.* v. *Schlesinger*, 384 F. Supp. 292 (C.D. Cal. 1974).

Rule 34—*Hurt* v. *United States*, Civ. No. 72–3183 (9th Cir., filed Sept. 11, 1974).

X4, 5—*ITT Gilfillan, Inc.* v. *Froehlke*, Civ. No. 416–73 (D.D.C., filed June 28, 1973).

X4, 7—*In re Grand Jury Witness Subpoenas*, 370 F. Supp. 1282 (S. D. Fla. 1974).

"Agency"—*Independent Investor Protection League* v. *New York Stock Exchange*, 367 F. Supp. 1376 (S.D. N.Y. 1973).

X7—*Institute for Weight Control, Inc.* v. *Klassen*, 348 F. Supp. 1304 (D. N.J. 1972).

a(3), X5—*International Paper Co.* v. *FPC*, 438 F. 2d 1349, 1358–59 (2d Cir. 1971), *cert. den.* 404 U.S. 827 (1971).

X4—*Irons* v. *Schuyler*, 321 F. Supp. 628 (D.D.C. 1970), *aff'd in part and remanded in part*, 465 F. 2d 608 (D.C. Cir. 1972), *cert. denied* 409 U.S. 1076 (1972), *on remand* 369 F. Supp. 403 (D.D.C. 1914).

a(2)—*Kent Corp.* v. *NLRB*, Civ. No. 73–M–1090 (N.D. Ala., decided Feb. 27, 1974).

X6, 7—*Kerr* v. *U.S. District Court for Northern District of California*, 511 F. 2d 192 (9th Cir. 1975).

X5, 7—*Koch* v. *Dept. of Justice*, 376 F. Supp. 313 (D.D.C. 1974).

X4, 5, 6—*Kreindler* v. *Department of the Navy*, 363 F. Supp. 611 (S.D. N.Y. 1973), interim opinion; 372 F. Supp. 333 (S.D.N.Y. 1974).

X1—*Kruh* v. *GSA*, Civ. No. 73C1517 (E.D. N.Y., filed Sept. 19, 1974).

X7—*LaMorte* v *Mansfield*, 438 F. 2d 448 (2d Cir. 1971).

X3, 4, 7—*Legal Aid Society of Alameda County* v. *Shultz*, 349 F. Supp. 771 (N.D. Cal. 1972).

Enjoining agency proceeding pending resolution of FOI suit—*Lennon* v. *Richardson*, 378 F. Supp. 39 (S.D. N.Y. 1974).

X4, 6—*Levine* v. *Department of Treasury*, Civ. No. 73–1215 (S.D. Fla., filed March 22, 1974).

X2, 5, 7—*Long* v. *IRS*, 339 F. Supp. 1266 (W.D. Wash. 1971).

X2, 5—*Long* v. *IRS*, 349 F. Supp. 871 (W.D. Wash. 1972).

X3, 4, 5, 7—*M. A. Schapiro & Co.* v. *SEC*, 339 F. Supp. 467 (D.D.C. 1972).

X4—*McCoy* v. *Weinberger*, 386 F. Supp. 504 (W.D. Ky. 1974).

X2, 5, 7—*McIntyre* v. *Warner*, Civ. No. 1350–73 (D.D.C., filed Oct. 3, 1974).

X5—*Miller* v. *Smith*, 229 F. Supp. 55 (S.D. N.Y. 1968).

X5—*Mims* v. *United States*, No. 8935 Civil (D.N.M., filed July 8, 1971).

X1, 5—*Mink* v. *EPA*, 464 F.2d 742 (D.C. Cir. 1972), *rev'd* 410 U.S. 73 (1973).

X3, 4, 5—*Misegades & Douglas* v. *Schuyler*, 328 F. Supp. 619 (E.D. Va. 1971), *dis'd as moot*, 456 F.2d 255 (4th Cir. 1972).

X5—*Missouri Portland Cement Co.* v. *FTC*, Civ. No. 474–71 (D.D.C., filed Dec. 15, 1972), to be found in CCH Trade Cas. ¶74,124 or 74,279, *on reconsideration* CCH Trade Cas. ¶74,280.

X5—*Montrose Chemical Corp.* v. *Train*, 491 F.2d 63 (D.C. Cir. 1974).

X7—*Moore-McCormack Lines, Inc.* v. *I.T.O. Corporation of Baltimore*, 508 F.2d 945 (4th Cir. 1974).

X1—*Moss* v. *Laird*, Civ. No. 1254–71 (D.D.C., decided Dec. 7, 1971).

X5, Fed. Advisory Comm. Act.—*Nader* v. *Dunlop*, 370 F. Supp. 177 (D.D.C. 1973).

"identifiable records", X4, 5—*National Cable Television Ass'n* v. *FCC*, 479 F.2d 183 (D.C. Cir. 1973).

X4—*National Parks and Conservation Ass'n* v. *Morton*, 351 F. Supp. 404 (D.D.C. 1972), *rev'd and remanded* 498 F.2d 765 (D.C. Cir. 1974).

a(2)—*National Prison Project of the American Civil Liberties Union Foundation, Inc.* v. *Sigler*, Civ. No. 74–31 (D.D.C., decided Jan. 17, 1975).

"person", X3 (18 U.S.C. § 1905), 4, reverse FOI case—*Neal-Cooper Grain Co.* v. *Kissinger*, 385 F. Supp. 769 (D.D.C. 1974).

"record", X3—*Nichols* v. *United States*, 325 F. Supp. 130 (D. Kan. 1971), *aff'd* 460 F.2d 671 (10th Cir. 1972).

X1, 3 (44 U.S.C. §§ 2101, 2107, 2108), "agency"—*Nixon* v. *Sampson*, 389 F. Supp. 107 (D.D.C. 1975).

a(3)—*Owens* v. *U.S. Bureau of Prisons*, 379 F. Supp. 547 (D.D.C. 1974).

X4, 5—*Pacific Architects and Engineers, Inc.* v. *Renegotiation Bd.*, 505 F.2d 383 (D.C. Cir. 1974).

"prompt disclosure"—*Packer* v. *Kleindienst*, Civ. No. 1988–72 (D.D.C., filed July 8, 1974).

X3—*People of the State of California* v. *Richardson*, 351 F. Supp. 733 (N.D. Cal. 1972), *remanded for dismissal* 505 F.2d 767 (*People of the State of California* v. *Weinberger*).

X4, promise of confidentiality—*Petkas* v. *Staats*, 364 F. Supp. 680 (D.D.C. 1973), *rev'd and remanded* 501 F.2d 887 (D.C. Cir. 1974).

X5, 7—*Philadelphia Newspaper, Inc.* v. *HUD*, 343 F. Supp. 1176 (E.D. Pa. 1972).

X5, 7—*Pilar* v. *S.S. Hess Patrol*, 55 F.R.D. 159 (D. Md. 1972).

X2, 5—*Polymers, Inc.* v. *NLRB*, 414 F.2d 999 (2d Cir. 1969), *cert. denied*, 396 U.S. 1010 (1970).

a(3), X4, 5, personal notes not agency records—*Porter County Chapter of Isaak Walton League* v. *AEC*, 380 F. Supp. 630 (N.D. Ind. 1974).

X7—*Preferred Land Corp.* v. *SEC*, Civ. No. 74–559 (D.D.C. filed May 1, 1975), to be found in CCH Fed. Sec. ¶94,555.

X4, 5, 6—*Rabbitt* v. *Department of the Air Force*, 383 F. Supp. 1065 (S.D. N.Y. 1974).

X5, 7—*Rayner and Stonington, Inc.* v. *FDA*, Civ. No. 68–1995 (E.D. Pa., filed Aug. 14, 1969).

Fees—*Reinoehl* v. *Hershey*, 426 F.2d 815 (9th Cir. 1970).

X3—*Robertson* v. *FAA*, Civ. No. 1970–71 (D.D.C., filed Oct. 31, 1972), *aff'd* 495 F.2d 1031 (D.C. Cir. 1974) (*Robertson* v. *Butterfield*).

Discovery—*Robins & Weill, Inc.* v. *United States*, Civ. No. C–7–6–72 (M.D. N.C., decided February 25, 1974), to be found in 74–1 U.S.T.C. ¶9299.

X6—*Robles* v. *EPA*, 484 F.2d 843 (4th Cir. 1973).

a(1)(D)—*Rodriguez* v. *Swank*, 318 F. Supp. 289 (N.D. Ill. 1970).

X2, 5, 6—*Rose* v. *Department of the Air Force*, Civ. No. 72–1605, *rev'd and remanded* 495 F. 2d 261 (2d Cir. 1974).

a(2), X4, 6, 7—*Rural Housing Alliance* v. *U.S. Dept. of Agriculture*, Civ. No. 2460–72 (D.D.C., filed May 9, 1973), *rev'd and remanded* 498 F.2d 73 (D.C. Cir. 1974), *on bill of costs* 511 F.2d 1347 (D.C. Cir. 1974).

X1—*Schaffer* v. *Kissinger*, 505 F. 2d 389 (D.C. Cir. 1974).

X3—*Schecter* [*sic*] v. *Richardson*, Civ. No. 710–72 (D.D.C., filed July 17, 1972).

X3 (42 U.S.C. § 1306)—*Schechter* v. *Weinberger*, Civ. No. 2319–73 (D.D.C., filed June 7, 1973), *rev'd and remanded* 506 F. 2d 1275. (D.C Cir. 1974).

X5, reverse FOI case—*Schwartz* v. *IRS*, 75–1 U.S.T.C. ¶9389 (Sept. 23, 1974), *clarification ordered* 511 F. 2d 1303 (D.C. Cir. 1975).

a(3)—*Seafarers International Union, AFL–CIO* v. *Baldovin*, 508 F. 2d 125 (5th Cir. 1975).

X3 (18 U.S.C. § 1905, 7—*Sears, Roebuck & Co.* v. *GSA*, 384 F. Supp. 996 (D.D.C. 1974), *stay of order dissolved* 509 F. 2d 527 (D.C. Cir. 1974).

a(3) *Sears, Roebuck & Co.* v. *NLRB*, 433 F. 2d 210 (6th Cir. 1970).

a(2)(A), X5—*Sears, Roebuck & Co.* v. *NLRB*, 346 F. Supp. 751 (D.D.C. 1972), *aff'd* 480 F.2d 1195 (D.C. Cir. 1973), *aff'd in part, rev'd in part, and remanded* 43 U.S.L.W. 4491 (U.S. April 28, 1975).

Enjoining agency proceeding pending resolution of FOI case—*Sears, Roebuck & Co.* v. *NLRB*, 473 F.2d 91 (D.C. Cir. 1972).

"Identifiable records", X3, 4—*Sears* v. *Gottschalk*, 357 F. Supp. 1327 (E.D. Va. 1973), *aff'd* 502 F.2d 122 (4th Cir. 1974).

a(3)—*Secretary of Labor* v. *Farino*, 490 F.2d 885 (7th Cir. 1973).

X5, 6—*Seiler* v. *Department of Transportation*, Civ. No. 73–CV–143 C (W.D. Mo., decided March 25, 1975).

X3—*Serchuk* v. *Richardson*, Civ. No. 72–1212 (S.D. Fla., filed Nov. 28, 1972).

Use of FOIA as a discovery tool—*Shakespeare* v. *United States*, 389 F.2d 772 (Ct. Cl. 1968), *pet'n dis'd* 419 F.2d 839 (Ct. Cl. 1969), *cert. denied* 400 U.S. 820 (1970).

X5—*Simons—Eastern Co.* v. *United States*, 55 F.R.D. 88 (N.D. Ga. 1972).

a(3)—*Skolnick* v. *Campbell*, 454 F.2d 531 (7th Cir. 1971).

"agency"—*Skolnick* v. *Kerner*, 435 F.2d 694 (7th Cir. 1970).

jurisdiction—*Skolnick* v. *Parsons*, 397 F.2d 523 (7th Cir. 1968).

a(3), exhaustion of administrative remedies—*Smith* v. *Switzer*, Civ. No. 73–376 (W.D. Pa., decided May 30, 1973) to be found in 73–2 U.S.T.C. ¶ 9490.

X4, 5—*Soucie* v. *David*, 448 F.2d 1067 (D.C. Cir. 1971).

X5, 7, discovery—*Steadham Security Corp.* v. *SEC*, Civ. No. 2367–72 (D.D.C., decided Jan. 25, 1973), to be found in CCH Fed. Sec. ¶93–735.

X4, 5—*Sterling Drug, Inc.* v. *FTC*, 450 F.2d 698 (D.C. Cir. 1971).

X2, 5, 7—*Stern* v. *Richardson*, 367 F. Supp. 1316 (D.D.C. 1973).

X2, 5—*Stokes* v. *Hodgson*, 347 F. Supp. 1371 (N.D. Ga. 1972), *aff'd* 476 F. 2d 699 (5th Cir. 1973).

X4—*Stone* v. *Export-Import Bank of the United States*, Civ. No. 74–129 (N.D. Fla., decided April 17, 1975).

X3—*Stretch* v. *Weinberger*, 359 F. Supp. 702 (D.N.J. 1973), *aff'd* 495 F. 2d 639 (3d Cir. 1974).

X5—*Talbott Construction Co.* v. *United States*, 49 F.R.D. 68 (E.D. Ky. 1969).

a(2), X3 (26 U.S.C. §§ 6103(a)(1), 7213 (a)(1)), 4, 5—*Tax Analysts and Advocates* v. *IRS*, 362 F. Supp. 1298 (D.D.C. 1973), *modified in part and remanded* 505 F. 2d 350 (D.C. Cir. 1974).

X4, equitable jurisdication—*Tax Reform Research Group* v. *IRS*, Civ. No. 559–73 (D.D.C. decided April 17, 1974), to be found in 74–1 U.S.T.C. ¶ 9374.

X5—*Tennessean Newspaper, Inc.* v. *FHA*, 341 F. Supp. 1013 (M.D. Tenn. 1971), *rev'd* 464 F. 2d 657 (6th Cir. 1972).

Equity jurisdiction, *de novo* hearing—*Theriault v. United States*, 503 F. 2d 390 (9th Cir. 1974).

X2—*Tietze* v. *Richardson*, 342 F. Supp. 610 (S.D. Texas 1972).

X6—*Tuchinsky* v. *Selective Service System*, 294 F. Supp. 803 (N.D. Ill. 1969), *aff'd* 418 F. 2d 155 (7th Cir., 1969).

a(2)(C), a(3)—*United States* v. *Imbrunone*, 379 F. Supp. 256 (E.D. Mich. 1974).

a(2)—*United States* v. *Leichtfuss*, 331 F. Supp. 723 (N.D. Ill. 1971).

discovery—*United States* v. *Wahlin*, 384 F. Supp. 43 (W.D. Wis. 1974).

"Records"—*United States* v. *Walker*, 491 F. 2d 236 (9th Cir. 1974).

X4, reverse FOI case—*United States Steel Corp.* v. *Schlesinger*, Civ. Nos. 183–74–A, 195–74–A (E.D. Va., decided Sept. 20, 1974), to be found in 8 CCH E.P.D. ¶ 9717.

a(3), injunction of agency proceedings—*United Telephone Co. of Pennsylvania* v. *FCC*, 375 F. Supp. 992 (M.D. Pa. 1974).

Agency's burden of proof, X2, 5, 6—*Vaughn* v. *Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied* 415 U.S. 977 (1974), *on remand* 383 F. Supp. 1049 (D.D.C. 1974).

X5—*Verrazzano Trading Corp* v. *United States*, 349 F. Supp. 1401 (U.S. Customs Ct. 1972).

X3, 6—*Vietnam Veterans Against the War* v. *Laird*, Civ. No. 2277–70 (D.D.C., filed Oct. 15, 1971).

a(2), X4, 5, 6—*Washington Research Project, Inc.* v. *HEW*, 366 F. Supp. 929 (D.D.C. 1973), *aff'd in part, rev'd in part, and remanded* 504 F.2d 238 (D.C. Cir. 1974).

X4, 5, 7—*Wecksler* v. *Shultz*, 324 F. Supp. 1084 (D.D.C. 1971).

X7—*Weisberg* v. *Department of Justice*, 489 F.2d 1195 (D.C. Cir. 1973).

X4, 5, 7—*Wellford* v. *Hardin*, 315 F. Supp. 175 (D. Md. 1970), *aff'd* 444 F.2d 21 (4th Cir. 1961), *on motion for reconsideration* 330 F. Supp. 915 (D. Md. 1971).

X7—*Wellford* v. *Hardin* 315 F. Supp. 768 (D.D.C. 1970).

X4, 7—*Wellman Industries* v. *NLRB*, Civ. No. 73–74 (D.S. Car., April 13, 1973), *aff'd* 490 F.2d 427 (4th Cir. 1974).

X3 (42 U.S.C. § 2000e–8(e)), 4, 7, reverse FOI case—*Westinghouse Electric Co.* v. *Schlesinger*, Civ. No. 118–74–A (E.D. Va., filed April 2, 1974, permanent injunction issued April 19, 1974).

X5, 7—*Williams* v. *IRS*, 345 F. Supp. 591 (D. Del. 1972), *aff'd* 479 F.2d 317 (3d Cir. 1973).

X6, "similar files"—*Wine Hobby, U.S.A., Inc.* v. *United States Bureau of Alcohol, Tobacco, and Firearms*, 363 F. Supp. 231 (E.D. Pa. 1973), *rev'd* 502 F.2d 133 (3d Cir. 1974).

X1—*Wolfe* v. *Froehlke*, 358 F. Supp. 1218 (D.D.C. 1973), *aff'd* 510 F.2d 654 (D.C. Cir. 1974).

X5—*Wu* v. *Keeney*, 384 F. Supp. 1161 (D.D.C. 1974).

X5—*Wu* v. *Nat'l Endowment for Humanities*, 460 F.2d 1030 (5th Cir. 1972).

(A) NEW FOI OPINIONS (ISSUED SINCE COMPILATION OF PRIOR LIST, DEC. 1, 1974)

X7—*Anchorage Building Trades Council* v. *HUD*, 384 F. Supp. 1236 (D. Alaska 1974).

X5, 7—*Ash Grove Cement Company* v. *FTC*, 511 F.2d 815 (D.C. Cir. 1975), *remanding* 371 F. Supp. 370 (D.D.C. 1973).

Enjoining agency proceeding pending examination by plaintiff of a(2) indices—*Bayview Associates* v. *NLRB*, Civ. No. 74–1825 (D.D.C., decided Dec. 20, 1974), to be found in 75 CCH Lab. Cas. ¶10,524.

"Identifiable records," X5, 7—*Exxon Corp.* v. *FTC*, 384 F. Supp. 755 (D.D.C. 1974).

X5—*Grumman Aircraft Engineering Corp.* v. *Renegotiation Board*, 43 U.S.L.W. 4502 (U.S. April 28, 1975), *rev'g* 482 F.2d 710 (D.C. Cir. 1973), *aff'g* 325 F. Supp. 1146 (D.D.C. 1971), *on remand from* 425 F.2d 578 (D.C. Cir. 1970).

a(2)(C), X2—*Hawkes* v. *IRS*, 507 F.2d 481 (6th Cir. 1974), *aff'g* Civ. No. C–70–409 (W.D. Tenn., filed Nov. 5, 1973), *on remand from* 467 F.2d 787 (6th Cir. 1972), *rev'g and remanding* Civ. No. C–70–409 (W.D. Tenn., July 21, 1971), to be found in 71–2 U.S.T.C. ¶ 9640.

X3 (42 U.S.C. § 2000e), 4, delegation of responsibility for promulgation of regulations, reverse FOI case—*Hughes Aircraft Co.* v. *Schlesinger*, 384 F. Supp. 292 (C.D. Cal. 1974).

X6, 7—*Kerr* v. *U.S. District Court for Northern District of Cal.*, 511 F.2d 192 (9th Cir. 1975).

X4—*McCoy* v. *Weinberger*, 386 F. Supp. 504 (W.D. Ky. 1974).

X7—*Moore-McCormack Lines, Inc.* v. *I.T.O. Corporation of Baltimore*, 508 F.2d 945 (4th Cir. 1974).

a(2)—*National Prison Project of the American Civil Liberties Union Foundation, Inc.* v. *Sigler*, Civ. No. 74–31 (D.D.C., decided Jan. 17, 1975).

"Person", X3 (18 U.S.C. § 1905), 4, reverse FOI case—*Neal-Cooper Grain Co.* v. *Kissinger*, 385 F. Supp. 769 (D.D.C. 1974).

X1, 3(44 U.S.C. §§ 2101, 2107, 2108), "agency"—*Nixon* v. *Sampson*, 389 F. Supp. 107 (D.D.C. 1975).

X4, 5—*Pacific Architects and Engineers, Inc.* v. *Renegotiation Board*, 505 F.2d 383 (D.C. Cir. 1974).

X3—*People of the State of California* v. *Weinberger*, 505 F.2d 767 (10th Cir. 1974, *rev'g and remanding* 351 F. Supp. 733 (N.D. Cal. 1972) (v. *Richardson*).

X4, 5, 6—*Rabbitt* v. *Department of the Air Force*, 383 F. Sup. 1065 (S.D. N.Y. 1974).

X1—*Schaffer* v. *Kissinger*, 505 F.2d. 389 (D.C. Cir. 1974).

X3 (42 U.S.C. § 1306)—*Schecter* v. *Weinberger*, 506 F.2d 1275 (D.C. Cir. 1974), *rev'g and remanding* Civ. No. 2319–72 (D.D.C., filed June 7, 1973).

X5, reverse FOI case—*Schwartz* v. *IRS*, 511 F.2d. 1303 (D.C. Cir. 1975), *ordering clarification* of 75–1 U.S.T.C. ¶ 9389, Sept. 23, 1974.

a(3)—*Seafarers International Union AFL–CIO* v. *Baldovin*, 508 F.2d 125 (5th Cir. 1975).

X3, (18 U.S.C. § 1905), 7—*Sears, Roebuck & Co.* v. *GSA*, 509 F. 2d 527 (D.C. Cir. 1974), *dissolving stay of order in* 384 F. Sup. 996 (D.D.C. 1974).

X5—*Sears, Roebuck & Co.* v. *NLRB*, 43 U.S.L.W. 4491 (U.S. April 28, 1975), *aff'g in part, rev'g in part, and remanding*, 480 F. 2d 1195 (D.C. Cir. 1973), *aff'g* 346 F. Supp. 751 (D.D.C. 1972).

X5, 6—*Seiler* v. *Department of Transportation*, Civ. No. 73–CV–143 C (W.D. Mo., decided March 25, 1975).

X4—*Stone* v. *Export-Import Bank of the United States*, Civ. No. 74–129 (N.D. Fla., decided April 17, 1975).

a(2), X3(26 U.S.C. §§ 6103(a)(1), 7213(a)(1)), 4, 5—*Tax Analysts and Advocates* v. *IRS*, 505 F. 2d 350 (D.C. Cir. 1974), *modifying in part and remanding* 362 F. Supp. 1298 (D.D.C. 1973).

X2, 5, 6—*Vaughn* v. *Rosen*, 383 F. Supp. 1049 (D.D.C. 1974), *on remand from* 484 F. 2d 820 (D.C. Cir. 1973). *Cert. denied* in the latter 415 U.S. 799 (1974).

X4, 5, 6—*Washington Research Project, Inc.* v. *HEW*, 504 F. 2d 238 (D.C. Cir. 1974), *aff'g in part, rev'g in part, and remanding* 366 F. Supp. 929 (D.D.C. 1973).

X1—*Wolfe* v. *Froehlke*, 510 F. 2d 654 (D.C. Cir. 1974), *aff'g* 358 F. Supp. 1318 (D.D.C. 1973).

X5—*Wu* v. *Keeney*, 384 F. Supp. 1161 (D.D. C. 1974).

ADDENDUM

As has been indicated, the cut-off date for systematic research on unreported opinions was May 15. However, the following case has since come to our attention and in our judgment merits being appended to this issue of the case list.

X4, 5—*Brockway* v. *Department of the Air Force*, Civ. No. 74–1268 (8th Cir., filed June 6, 1975), *rev'g* 370 F. Supp. 738 (N.D. Iowa 1974).

(b) REVERSE FOI CASES

X4—*Charles River Park "A", Inc.* v. *HUD*, 360 F. Supp. 212 (D.D.C. 1973), *remanded* Civ. No. 73–1930 (D.C. Cir., decided March 10, 1975).

X3 (42 U.S.C. § 2000e), 4, delegation of responsibility for promulgation of regulations—*Hughes Aircraft Co.* v. *Schlesinger*, 384 F. Supp. 292 (C.D. Cal. 1974).

a(3) ("person"), X3 (18 U.S.C. § 1905), 4—*Neal-Cooper Grain Co.* v. *Kissinger*, 385 F. Supp. 769 (D.D.C. 1974).

X5—*Schwartz* v. *IRS*, 75–1 U.S.T.C. ¶ 9389, Sept. 23, 1974, *clarification ordered* 511 F. 2d 1303 (1975).

X4—*United States Steel Corp.* v. *Schlesinger*, Civ. Nos. 183–74–A, 195–74–A (E.D. Va., decided Sept. 20, 1974), to be found in 8 CCH E.P.D. ¶ 8717.

X3 (42 U.S.C.—*Westinghouse Electric Co.* v. *Schlesinger*, Civ. No. 118–74–A (E.D. Va. filed April 2, 1974, permanent injunction issued April 19, 1974).

TRIBUTE TO STAN G. GERTIE

Mr. DOMENICI. Mr. President, I am pleased to call to the attention of my colleagues the outstanding service of Lt. Col. Stan G. Gertie—retired—of Albuquerque, who was recently elected national third junior vice commander of the Disabled American Veterans. Mr. Gertie was unanimously elected to this office at the DAV's 54th national convention, held in Honolulu August 31 to September 4, and is the first New Mexican to hold a national office in the DAV.

Lieutenant Colonel Gertie is a veteran of more than 30 years in the armed services, beginning his distinguished career in the National Guard in Kansas in 1922, where he served until 1933. He was commissioned in the regular service in July 1942 and was assigned to Libya. After the Germans were driven out, he served in Cairo, Egypt until 1945, when he was sent to Palestine. He served there until August 1945, when he was sent back to Cairo. Mr. Gertie was discharged in January 1946, and served in the reserves until his retirement with the rank of lieutenant colonel in 1963.

Mr. Gertie was awarded three bronze stars and the Legion of Merit was conferred on him for his outstanding performance in Egypt. He was also recommended for a second Legion of Merit for his service in Palestine.

Mr. Gertie, a fullblooded Cherokee, was born in Gore, Okla., and was orphaned at the age of 6. He is a graduate of the Haskell Institute in Lawrence, Kans., and attended the University of Kansas.

Stan Gertie is a life member of the Albuquerque Cutting-Garcia Chapter No. 3 and immediate past department adjutant-treasurer of the Disabled American Veterans, a post he held for 8 years.

He is also active in the Elks, the Veterans of Foreign Wars, American Legion Post 13 of Albuquerque, and the Retired Senior Citizens of Albuquerque.

It gives me great pleasure to recognize Stan Gertie for his outstanding service to his State and Nation. I am proud to have the privilege to know such a patriotic American and outstanding citizen of New Mexico.

CRIMES AGAINST THE ELDERLY

Mr. RIBICOFF. Mr. President, older people in America face a number of problems. Many of them, such as the problems of health care and retirement income are well known to most of us. However, little attention has been focused on the problems of crime perpetrated against the elderly. Older Americans are increasingly the victims of crime. Generally they are more vulnerable and less able to protect themselves.

One of our Nation's experts on the problems of older Americans and a resident of Connecticut, Noel Tomas, has coauthored an excellent article which outlines the problem of crimes against the elderly.

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

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

CRIMES AGAINST THE ELDERLY: A CONTINUING NATIONAL CRISIS

(By Jack Goldsmith and Noel E. Tomas)

In certain respects a crime against an older person may be considered simply as if it were a crime against a person of any age, and, indeed, traditionally this has been the case within the criminal justice system. The traditional view approaches the impact of criminal victimization rather narrowly in terms of financial deprivation and physical impairment.

However, there is a growing recognition that there is a distinctiveness about crimes against the elderly, and that, when considered broadly in terms of the physical, economic, social and psychological impact, these crimes warrant treatment as a special category.

The case for singling out the elderly victim from the general population for special attention may be summarized as follows:

1. There is a high incidence of reduced or low income among the elderly. Thus, the impact of any loss of economic resources is relatively greater.

2. Older people are more likely to be victimized repeatedly—often the same crime and the same offender.

3. Older people are more likely to live alone. Social isolation increases vulnerability to crime.

4. Older people have diminished physical strength and stamina; hence, they are less able to defend themselves or to escape from threatening situations.

5. Older people are far more likely to suffer from physical ailments such as loss of hearing or sight, arthritis and circulatory problems which increase their vulnerability.

6. Older people are physically more fragile and more easily hurt should they opt to defend themselves. For example, bones are more easily broken, and recovery is more difficult. Thus, they are less likely to resist attackers.

7. Potential criminals are aware of the diminished physical capacity and the physical vulnerability of the elderly and are thus more likely to seek out an elderly target (whose aged status is easily visible.)

8. There is a greater likelihood that older people will live in high crime neighborhoods rather than in suburbia as a result of diminished income and of being rooted in central cities. Thus, they find themselves in close proximity to the groups most likely to victimize them—the unemployed, teenage drop-outs.

9. The dates of receipt by mail of monthly pension and benefit checks (and hence the dates when older people are most likely to have cash on their person or in their dwelling) are widely known.

10. Dependency on walking or on public transportation is more likely among older people who, for physical, financial or other reasons, are less likely to drive or own a private automobile.

11. There is evidence that older people are particularly susceptible to fraud and confidence games.

12. Older people have the highest rates of the crime of personal larceny with contact (theft of purse, wallet or cash directly from the person of the victim, including attempted purse snatching).

13. Awareness of increased vulnerability to criminal behavior has a chilling effect upon the freedom of movement of older Americans. Fear of criminal victimization causes self-imposed "house arrest" among older people who may refuse to venture out of doors. Furthermore, even in those situations where the fear of being victimized may be somewhat exaggerated or unwarranted by local conditions, the effect on the older persons is just as severe as when the fears are justified.

14. Because of a loss of status and a decreased sense of personal efficacy associated in American culture with being old, older people may be less likely to process complaints through the criminal justice bureaucracy and to draw upon available community resources for protection and redress.

CONTINUING NATIONAL CRISIS

Older people receive no special consideration from potential victimizers; in fact, their special vulnerability serves as a green light to criminals. They are subject to the same kinds of crimes as the general population although at differing rates. Based on extensive research in Kansas City, Carl L. Cunningham of the Midwest Research Institute concludes:

"Of the more serious crimes against the elderly, burglary is the predominating major offense, as it is country-wide. It is followed by robberies—both armed and strong-arm, grand larceny, auto theft, nonviolent purse snatches, assaults, rapes and sexual molestations, and homicides, roughly in that order."

Present findings clearly indicate that this is a nation-wide problem that is particularly serious in the larger cities of America. In this sense, the matter of crimes against the elderly is an integral aspect of what has been termed "the urban crisis." The elderly tend to be concentrated in older neighborhoods in close proximity to the very elements of society that are most likely to victimize them.

Furthermore, the kind of personal calamity that is experienced by the aged victim of mugging, burglary or purse snatching is not essentially different from the crimes that often follow in the wake of collective calamities such as civil disorders or natural disasters when looting and personal assault are constant threats. For the individual victim, the personal disaster—the loss, the injury, the psychological blow—is of the same order as the larger disaster. In fact, the impact of criminal victimization may be greater under "normal conditions" when the incident happens in isolation. In large disasters, the aged victim can at least take some comfort in the fact that he is not alone in his troubles, and that there is a national spotlight on the problem and, hence, sympathy and emergency relief on the way. The isolated aged victim of criminal behavior—so often alone—out of depression and frustration very often does not even report the crime.

PSYCHOLOGICAL IMPACT

There are two dimensions to the threat of criminal victimization: the actual threat and the perceived threat. Both dimensions have a negative impact on the individual. The fear of being victimized can shape the daily life of an older person. The fear of freely moving about in the community deprives the older person of a basic American right. A common adaptation to the perceived threat of criminal victimization, documented most notably in low cost housing projects, is a form of self-imposed incarceration where the terrorized remain behind locked doors refusing to venture out unless absolutely necessary. Elaine M. Brody of the Philadelphia Geriatric Center has written of the psychological consequences of actual victimization:

"The importance of the particular legal problem lies not only in its intrinsic importance, but in its personal and psychological significance. The landlord who raises the rent excessively, the salesman who exploits, the health quack who deceives, the "con" man who fleeces, inflict wounds to pride and dignity as well as to purse and person. Violence injures not only the physical self, but reinforces feelings of helplessness. Even a small loss may be the most recent in a series of "insults;" though superficially trivial, it may represent the proverbial last straw, or restimulate previous experiences of losses with their attendant painful emotions."

CRIME REPORTING

Until quite recently, the age of the victim has not been regarded as a significant statistic in crime reporting, except in the case of minors. This traditional lack of concern for reporting the age of the victim has now begun to break down and more data on the elderly crime victim are being reported. A pioneering effort in the collection of comprehensive data on elderly victims and their victimizers was undertaken in Kansas City, Mo., where former Chief of Police Clarence B. Kelley, now Director of the Federal Bureau of Investigation, inaugurated the policy of collecting and computerizing age statistics. With the collection of these data, locations and types of attacks can be ascertained and followed up with preventive police measures. The Uniform Crime Reports, compiled by the F.B.I. from data supplied by local police departments, are extensively used but do not classify crimes according to the age of the victim.

On the whole police data that do not deal with victimization of persons 60 and over are not adequate. Police reporting, for example is not done by census tracts, which makes it difficult to determine the incidence of crime in relation to residence of elderly populations in urban settings.

The study of criminal victimization is highly complex. Difficulties surrounding it are by no means confined to reporting on elderly victims. The major roadblock to obtaining accurate data is under-reporting. A recent study by the Law Enforcement Assistance Administration of *Crime in the Nation's Five Largest Cities* indicates the magnitude of underreporting. The study found that the total number of incidents of crimes reported by survey respondents was approximately double the combined number of comparable offenses recorded by law enforcement agencies in the five cities during 1972. The most commonly cited reasons for failure to report a personal or household crime to the police were (1) a belief that, because of a lack of proof, nothing could be accomplished by reporting the incident and (2) a belief that the incident was not important enough to warrant police attention.

A comprehensive 3-year University of California at Davis study of robbery in Oakland, Calif., concluded that older persons are among the most vulnerable segments of our society. They found ". . . the likelihood of any individual in the city being victimized within the year to be relatively high—rang-

ing from one in 146 for the general population to one in 24 for certain high risk populations such as females over 65."

The research team interviewed both robbers and victims and reported that victims were predominantly female. More than half of the female victims of street robberies were over age 55, and more than one-third were over age 65. These findings are in line with the L.E.A.A. five-city study which found that the highest rates of personal larceny with contact in four of the five cities were recorded for persons over 50.

Perhaps the most comprehensive study that focuses exclusively on the aged victim is now being conducted by the Midwest Research Institute supported by the Administration on Aging. This study is undertaking detailed analyses of serious crimes in Kansas City involving victims 60 years of age and over. Data are being gathered from police reports, interviews with victims and their neighbors, or relatives, and through interviews with ex-offenders who can shed light on the older person's vulnerability to crime.

Much of the information available about residential security problems of the elderly and about measures taken to improve conditions was presented at a series of hearings held by the Housing Subcommittee of the Senate Special Committee on Aging in 1971. Several volumes of testimony have been compiled. Housing security is the most widely treated facet of criminal victimization of the elderly. The findings of Oscar Newman of the Institute of Planning and Housing have been very influential. His concept of "defensible space" which suggests a series of physical design characteristics that will support resident control of criminal behavior within a residential community has been widely disseminated.

FIGHTING CRIMES ON ELDERLY

In response to activities initiated under provisions of the Older Americans Act of 1965, to recommendations of the 1971 White House Conference on Aging, and to several Congressional hearings on needs of the elderly, a generalized concern for older persons has been spreading over the country. The past decade has seen an increased awareness of the special needs and problems of the elderly in such areas as income, health, nutrition and housing. A small number of independent activities around the nation indicate that some members of the criminal justice community are recognizing the special needs of the elderly with respect to crime. A number of states, communities, neighborhood and private groups have introduced an array of experimental programs designed to protect the elderly. The following are examples of the range of recent activities.

Hartford, Conn.,: A "teen escort service" was established in cooperation with the police department. The New York City Housing Authority Tenant Patrol has developed a similar program.

Hoboken, N.J.,: Special equipment such as closed circuit television cameras in buildings and on high-crime street corners has been utilized.

The American Association of Retired Persons' Crime and Safety Program has established public service training sessions for their chapters.

The Justice Department in California has held seminars to train older persons in protective crime prevention. The Department has sponsored a number of activities earmarked to protect the elderly including a Consumer Information Protection Program for Seniors (CIPPS).

The California Attorney General's Advisory Commission on Problems of the Aging is a broadly based group that meets regularly to consider protection of the elderly.

A special seminar sponsored by the Department of Housing and Urban Development held in Washington, D.C., in September, 1973, for housing personnel focused on security needs of residents of multi-family projects with special emphasis on the elderly.

A seminar on residential security for the elderly was held in Kansas City, Mo., in February, 1974, by the Midwest Research Institute. Plans included a series of follow up neighborhood meetings.

The Community College of Allegheny County, Pa., has held sessions on Personal Defense and Security Training for the Aging.

In 1971, the Washington, D.C. Project Assist found that the police were a prime source for finding the isolated and needy elderly. With the hypotheses that older people are in need of special outreach programs and that the police are often called upon to perform many non-law enforcement, essentially social work functions, a social worker was assigned to a station house to assist in handing complaints from the elderly that were not specifically crime-related.

In October, 1973, a special seminar-workshop on reducing crimes against aged persons was held in Wilmington, Del. The intergovernmental workshop under the sponsorship of the Delaware Division of Aging and the Mid-Atlantic Region's Federal Regional Council '. ask Force on Solving the Problems of the Elderly brought together policemen, social workers, and representatives of private and public agencies involved in aging programs and services. All Federal departments of the Federal Regional Council were represented.

The objectives of the workshop were to develop approaches to the problem of reducing crimes against the elderly in cities in the region. Through follow-up meetings, Wilmington officials and the task force concentrated attention on developing a Wilmington Crime Reduction Plan for the Aged. The four components of the plan are data evaluation, education, hardware, and social services.

WHCOA FINDINGS

The evidence is mounting that the elderly constitute a unique class of crime victim and that crimes against the elderly can be dealt with most effectively when considered as a distinct category of criminal activity. The 1971 White Conference on Aging recognized the special nature of the problem of criminal victimization of the elderly in their recommendations on legal protection which were summarized in *Towards a New Attitude on Aging:*

"These recommendations dealt with assisting the elderly to participate in the criminal justice system and with the prevention of both white collar crimes such as fraud and crimes of violence such as assault. These recommendations included: making physical protection and crime prevention an element of the planning of facilities for the elderly; expanding police protection of minority neighborhoods; establishing formal liaison between social service agencies and police departments so that elderly who are victims of crime can obtain all necessary assistance; providing better street lighting; making training grants available to police officers and others to acquaint them with the special situation of the elderly and their special susceptibility to particular types of crime; and granting Federal funds to State and local prosecuting officers to expand or establish trained fraud units which are well acquainted with schemes used to deceive the elderly."

Two conference recommendations specifically treat the "special situation of the elderly and their special susceptibility to particular types of crime":

"Police protection of the elderly should become a top priority. A portion of Federal funds for the prevention of crime allocated to the States or local communities should be earmarked for this purpose. Particular attention should be paid to the needs of minority groups.

"Standards for physical and environmental security should be developed and applied as an integral and basic element of all housing projects serving the elderly."

The White House Conference was instrumental in promoting the principle that the elderly as consumers in the criminal justice system have special requirements for their protection and safety. Identification of certain categories of citizens for special treatment in security and protection is an established police practice. Children represent the most widely recognized special category. They receive special treatment throughout the criminal justice and legal system. Similarly, political leaders, rock-and-roll idols, women (especially where campus rape is widespread) and bank employees have become recipients of security benefits derived from a public policy which recognizes that, for some groups, equal protection of the laws can best be realized through specialized or differential treatment. That differential treatment by police can provide equal protection of the laws to the elderly is an idea whose time has at last arrived.

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IS ANYBODY LISTENING TO THE SMALL FARMER?

Mr. McGOVERN. Mr. President, the Rapid City Journal of my home State recently published an editorial that "hit the nail on the head" regarding farm policy.

The editorial accurately points out:

The small farmer would best be helped by things like a stable market, a fair return and the opportunity for a reasonable profit, to say nothing of relief from the ravages of inflation (and longshoremen).

As my colleagues here in the Senate are aware, I have often spoken in favor of legislation designed to stabilize the boom/bust cycles so disastrous to our small family farmers and livestock producers. Unfortunately, our efforts to achieve a meaningful farm policy have been vetoed by an adminstration bent on listening to advice of desk-bound farmers.

I commend the editors of the Journal for their insight and recommend the editorial to my colleagues. I ask unanimous consent that it be printed in the RECORD.

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

[From the Rapid City Journal, Sept. 12, 1975]

IS ANYBODY LISTENING TO THE SMALL FARMER?

Now the General Accounting Office (GAO) and the Department of Agriculture (USDA) are arguing about how to increase the incomes of small farmers.

In a newly-released report, the GAO says technical assistance from the government would boost farm incomes and help meet the world's food and fiber needs.

Demonstration projects already have proven, according to the report, that government aid in farm production and farm management practices can lead to bigger crops. One such project in the region of the Tennessee Valley Authority three years ago reportedly showed a potential for tripled production.

The GAO has advised the USDA to determine the possibilities of increasing farm incomes with specific technology and management techniques, to determine the kind of help small farmers will need to adjust to anticipated changes in the agricultural industry, and to find out how many farmers could put such government assistance to use.

But the USDA says any kind of government help resulting in increased production probably would work to the detriment of the small farmer. Bigger crops could mean lower prices—and lower incomes, not higher ones.

Replying to the GAO report, assistant Agriculture Secretary Robert W. Long said technology and management "have not been the primary limiting factors" on small farm income. More serious problems, he implied, are difficulty in finding credit and attractive farmland.

The whole exchange between the GAO and the USDA makes one wonder if either has bothered to ask the small farmer for his ideas.

The average agricultural proprietor, at least in this region, isn't likely to need instructions on how to grow crops or raise livestock, or how to balance his books. He already knows how to farm, and if he needs answers to specific questions in regard to emerging technologies, he need go no farther than the extension service of almost any land grant college or university.

On the other hand, he isn't likely to need more credit with which to submerge himself in debt or more land in which to put an even greater investment in time, effort and financial resources.

The small farmer would best be helped by things like a stable market, a fair return and the opportunity for a reasonable profit, to say nothing of relief from the ravages of inflation (and longshoremen).

The bureaucrats, removed as they are from small farming operations in both a physical and a philosophical sense, seem to have ignored the very obvious—even though South Dakota farmers and ranchers have been trying for years to point it out.

Are you listening, Washington?

You realize, don't you, Washington, that the foremost experts on farming and ranching are farmers and ranchers?

THE GROWING CRISIS IN TRANSPORTATION

Mr. HUMPHREY. Mr. President, the problems facing the Nation's transportation system worsen each day. Many of the old railroads are bankrupt and a large number of others, along with several airlines, are nearly in the same condition. Energy costs for all forms of transportation continue to escalate.

What happens in the next few years will set the stage for coming decades and generations. We must look carefully at some of the unanswered questions related to the continuing problem of moving people and goods from place to place.

The Senate Subcommittee on Surface Transportation, chaired by my distinguished colleague, Mr. HARTKE, is continuing to study various alternatives to this problem and has recently concluded hearings on several Senate proposals for making the railroads a viable part of our transportation system again.

Two of the bills which the subcommittee considered are S. 793, the National Rural Transportation Act and S. 1385, the Railroad Rehabilitation and Recovery Act, which I introduced in February and April of this year.

Mr. President, I ask unanimous consent that a letter I recently sent to Mr. HARTKE containing my views on this legislation be printed in the RECORD.

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

JOINT ECONOMIC COMMITTEE,
Washington, D.C., September 11, 1975.

Hon. VANCE HARTKE,
Chairman, Subcommittee on Surface Transportation, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in regard to current subcommittee hearings on several Senate bills which would amend the existing pattern of regulation affecting the Nation's railroads. Legislation under consideration includes two bills which I have introduced—S. 793, the National Rural Transportation Act, and S. 1385, the Railroad Rehabilitation and Recovery Act.

I request that this statement of my views on this legislation be included in the subcommittee hearing record.

We are all clearly aware of the strong public interest in the serious problems confronting the nation's railroads. The Senate already has considered legislation designed to meet two needs: the severe unemployment problem and the deterioration of rail tracks.

This subcommittee is continuing to review various proposals to solve the nation's rail problems, to once again make the railroads a viable part of our transportation system.

Rail line abandonments, the deterioration of tracks and roadbeds, layoffs of maintenance-of-way employees, and major adverse impacts on the economies of various regions due to progressively limited or canceled rail transportation services have increasingly filled news headlines.

Both S. 793, the National Rural Transportation Act and S. 1385, the Railroad Rehabilitation and Recovery Act, address these problems.

S. 793 addresses the transportation problem facing rural America. Rural development depends on a sound transportation system. The deterioration of our nation's railroad system places an extreme burden on our rural roads and denies efficient rail transit to many small communities.

Each time a so-called "unprofitable" rail line is abandoned, more than just the track lies idle. Farmers are forced to use more expensive forms of transit. Farmers already faced with an intolerable situation find the cost of producing, with the increased shipping charges, even higher.

Small businessmen must pay more for the delivery of their goods, and local manufacturers lose a key link with their sales areas.

In addition, the fear of rail abandonment works actively against small towns and farming communities. Local businesmen become hesitant about expansion.

National firms cannot be sure that there will be a reliable rail service in future years if they were to build a satellite plant in the area.

If rural development is to proceed in an orderly and efficient manner, adequate transportation facilities and an efficient and stable transportation industry must be developed.

S. 793 places a two-year moratorium on rail abandonments while a national transportation commission examines all the critical questions of rural transportation. It also would supply funds for the upgrading of rural roads, bridge replacement and the reconstruction and rehabilitation of the railroad systems.

My overall goal is to see that this country has a national transportation policy that reflects the interrelated needs of both rural and urban areas. But, until that policy is developed, the crisis in rural transportation will continue.

That is why on April 9, I introduced the Railroad Rehabilitation and Recovery Act of 1975 (S. 1385). This bill proposes a new national rail policy to maintain a competitive railroad industry in a constructive partnership with Federal and State governments. Its key features are the establishment of an Interstate Railroad System and the public acquisition and maintenance of railroad tracks and roadbeds within that system.

In effect, just as the Interstate Highway System provides the pathways for our over-the-road trucking firms, the Interstate Railroad System would require a comparable system of rail beds and tracks to serve the nation's rail transit needs.

My legislation proposes that all railroad companies could convey their tracks to an Interstate Railroad Administration and in return be relieved of the responsibility for track maintenance and property taxes. No company would be forced to do so, but those railbeds and tracks maintained by the Railroad Administration would be required by law to meet a 60 MPH standard (or higher as required) of safe and smooth passage for freight. The companies using the Interstate System would pay a users fee in order to finance the maintenance of the tracks.

The plain fact is that the present rail system simply is not doing its job. Too many lines are being abandoned. Too many firms are going bankrupt. Hundreds of millions

of dollars of needed rehabilitation and reconstruction of rail lines goes undone.

The solution, as I propose, is for the government to work with the private companies to enable them to meet better the public's needs.

Thank you, Mr. Chairman, for giving me this opportunity to state my views.

Sincerely,

HUBERT H. HUMPHREY.

SHOULD WE WASTE ELECTRICITY LIGHTING OUR HALLS?

Mr. McINTYRE. Mr. President, I am informed that maintenance crews are reinstalling light bulbs in the alternate fixtures of the Senate Office Building halls that have been unused since the oil embargo of nearly 2 years ago. I would like to ask why this is being done? Our halls have been well-lighted during the past 2 years. We have saved the cost of light bulbs that would have worn out during that time, and we have saved oil.

Today we appear to have forgotten the waste that is involved in overlighting our buildings. Each one of those bulbs requires an increase in generating capacity which requires more fuel. Is it necessary?

I hope that the Architect of the Capitol will reconsider this matter and I have written him to question this action.

HEARINGS ON PAY-AS-YOU-GO FEDERAL GOVERNMENT

Mr. CURTIS. Mr. President, yesterday the Subcommittee on Constitutional Amendments held its first day of hearings on a constitutional amendment to place the Federal Government on a pay-as-you-go basis. These hearings were held on Senate Joint Resolution 55, as revised, introduced by Senators CURTIS, HRUSKA, FANNIN, GOLDWATER, LAXALT, MCCLURE, WILLIAM L. SCOTT, THURMOND, and GARN, and Senate Joint Resolution 93, introduced by Senators TALMADGE, HELMS, NUNN, ALLEN, BUMPERS, and THURMOND. These resolutions have the same objective but are not alike in detail. Senator TALMADGE's statement appears in the CONGRESSIONAL RECORD of September 23, page 29782.

Mr. President, I ask unanimous consent to have printed in the RECORD my statement presented at the hearing, together with a statement of mine entitled, "The Budget Is Out of Control," which was placed in the record of the hearing.

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

STATEMENT OF SENATOR CARL T. CURTIS

I wish to extend my thanks to you, Senator Fong, and to the Chairman of the Subcommittee, Senator Bayh, for making this hearing possible. I also wish to express my gratitude for the help of my colleague from Nebraska, Senator Hruska. As the ranking minority member of the Committee on the Judiciary, he has been most helpful to me. Senator Hruska supports the objective of this proposal and I am happy to report that he plans to testify when these hearings are resumed.

It is my belief that the question we shall be considering today and in subsequent hearing may be one of the most fundamental and important public questions to which this Congress can address itself.

It is abundantly clear I am not alone in this opinion.

We shall be hearing from distinguished members of Congress, as well as from perceptive and deeply concerned members of state legislatures all of whom share with us a deep concern for the rapidly deteriorating fiscal integrity of our nation. We shall hear also from eminent economists from the North, from the South, from the West. All are profoundly concerned with the problem we shall be considering. At this very moment we are looking overseas and see a nation, the United Kingdom, whose desperate outlook is closely related to a government spending policy which is heading that great nation toward a disastrous outcome which even the most optimistic see as little short of hopeless. There is a certain point at which only heroic measures can stop a runaway deterioration.

Here at home we see our own nation's most populous city hovering on the edge of bankruptcy. The same men whose policy of deficit spending brought their great city to its knees seem helpless to restore the economy of the city which they themselves have wrecked through unwise and reckless spending policies.

The rapidly accelerating pace of public spending across our nation has now reached such a pitch, that some men, formerly advocates of almost unlimited spending, are now becoming alarmed. They—some of them—are ready at last to join us in seeking a solution to this problem before it is so far out of hand an uncontrollable inflation will become unavoidable.

The helplessness of these politicians is evident to everyone, once the pace of the trend towards bankruptcy reaches a critical point. In New York City they now have to go begging to their state legislature. Yes, representatives of this great city come begging even to the Federal government.

If bankrupt states should come to the Federal government and then other bankrupt cities should join the company of beggars, how long could even the credit of the Federal government endure such a lethal drain? Every responsible analyst in the country is alarmed by this trend.

It is not so many years ago that a hundred million marks would not buy a loaf of bread in Berlin. We must not, we will not, tolerate a trend that could in all realism, gain such momentum in our nation.

The very responsible and distinguished witnesses who intend to testify today and later before this committee feel deeply, I know, the present danger of our situation.

I look forward with the greatest interest to hearing their observations, especially as they relate to the proposal my distinguished colleagues and I have offered for a constitutional amendment which would require a balanced budget. The elements of the proposal are spelled out in S.J. Res. 55, and I shall not take time from other witnesses to specify the particulars, at this time. Before these hearings are complete I expect a full discussion of the proposals embodied in S.J. Res. 55.

Let me say, Mr. Chairman, the pervading fear is that the Congress will not show itself capable of resisting the temptation to spend and spend beyond the resources of even our great nation. The past history of fiscal recklessness is not very reassuring on this point.

We all hope that the new Senate Committee to give consideration to the budget will be able to do the job in the face of Congressional pressure for execessive and reckless spending.

But dare we hope for such a miraculous change in the Congress? Dare we leave the decision solely in the hands of a Congress which has brought us, over years of time, to the dangerous situation in which we find ourselves today? Will the Committee on the Budget, composed as it may be of men of highest principle and greatest character, find it possible to resist the pressure from a Congress which has been so accustomed to attempt the solution of every social evil known to man, by simply throwing money at the problem?

My colleagues and I who have sponsored S.J. Res. 55 do not believe we dare leave the decision to Congress alone, without any outside restraints, after such a history of reckless spending. We are joined in the belief that nothing less than an amendment to the Constitution will serve. Nothing less, we believe, will be adequate restraint on a Congress which has become "hooked" on spending.

Before completing my remarks, I wish to spend a few moments to dispel certain myths that have been propagated and nourished by the advocates of unrestrained Federal spending.

It is a commonplace, for example, for some of the press to refer to the question of balancing the Federal budget in a "worn-out slogan which is meaningless to most people." Certain elements of the press insist that people just don't care about this question. Other press representatives call it a "non-issue"—"a trumped-up artificial issue of no real consequence."

Perhaps the best way to examine the validity of such statements is to get some facts on what people are really thinking.

Gallup conducted a poll not long ago that is very relevant to our consideration. Gallup interviewers asked a representative cross-section of the United States population the following question:

"How important do you think it is to balance the Federal budget—very important, fairly important, or not so important?"

What these people told Gallup is very important.

To begin with, Gallup found that over 90 percent of the entire population had thought about this question and did have a definite opinion on balancing the budget. Only a minute fraction, only 7 percent, had no opinion. It is clear that the question of a balanced budget is on the minds of almost all of the people of this country.

Those who did have opinions—almost everyone, 83 percent that is,—favored balancing the budget. They thought it was important.

And these were not off-hand opinions. Sixty percent of all people said the question of balancing the Federal budget was very important to them.

Those who tell us the public is indifferent to this question are either ignorant of the facts, or are deceiving us. They better take another reading!

Another myth propagated by the advocates of big Federal spending is that only the rich really care about the problem. Gallup found that the opposite is true. It was in the highest income brackets that was found the most apathy. Only 52 percent of the relatively well-to-do persons believe balancing the budget to be very important.

On the other hand, people below $10,000 a year (down to $7,000) were much stronger in their beliefs on this issue: 70 percent of such relatively low-income persons believed balancing the Federal budget to be very important in comparison with only 52 percent of the well-to-do.

Let's look at the very bottom economic group—those with income less than $3,000.

Gallup found that the poor were much more concerned than were people in the top income bracket.

No. It is not a rich man's issue. On the contrary, it is even more a poor man's issue. It is, in fact, every man's issue. And, despite the deluge of propaganda to the contrary, the poor know very well that they are the hardest hit by unbalanced budgets and consequent inflation. Let us not be misled on this issue any longer.

Gallup also analyzed his findings by oc-

cupation. He found that manual laborers were more concerned about balancing the budget than any other occupation; and farmers were close behind them in their intensity of feeling on the matter of a balanced budget.

And who were least concerned? The professional and business men were the least concerned!

Individuals in the press and in politics should examine closely their belief that only businessmen and professionals care about a balanced budget. They are wrong.

Another myth propagated by the big spenders and their supporters in the press and on TV, is that a balanced budget is a partisan issue. It is often presented by the liberals as "a worn-out issue near and dear only to the Republicans."

Let us look again at the Gallup findings.

According to the Gallup analysis, people who consider themselves Democratic voters are more intensely concerned than are Republicans with the need for a balanced budget.

Gallup found that 63 percent of the Democrats believed the question of balancing the budget to be very important compared to 55 percent of the Republicans. In fact, more Independents also were concerned than were Republicans.

There are still other myths about balancing the budget.

Sometimes the question of a balanced budget is presented by propagandists disparagingly as an "old folks" issue. The young are supposed to be less interested in such matters.

Here again, the Gallup analysis displays the falsity of such a belief. Two groups of young people, one group aged 18 to 24 and another group 25 to 29 were found to be more keenly concerned with balancing the budget than were persons over 50 years of age.

The fact is clear. Young people are more clearly aware than some politicians may believe. Young people know they are deeply and importantly affected by unbalanced Federal budgets, and the consequences that flow therefrom. It is clearly not an "old folks" issue only.

Spendthrift politicians who believe they are appealing to young people when they advocate reckless spending would be wise to study the actual public opinion of the young people on this issue.

Finally, let me say I do not lean entirely on Gallup for such information. Mr. Louis Harris found last year that 76 percent of the entire population believes that Federal spending is the major cause of inflation.

The people are ahead of the politicians on this question.

The poor really understand they are the hardest hit. They are not misled.

The farmers and the manual laborers know how much damage is done to them by the avalanche of Federal spending.

The young voters are not deceived by reckless promises.

And finally, it is not a partisan Republican issue as some have claimed. I repeat: a higher proportion of Democrats and of Independents are worried about an unbalanced budget than are Republicans.

And, I repeat again, 76 percent of the entire population believe Federal spending is the major cause of inflation.

It seemed to me appropriate to begin these hearings by dispelling some of the more obvious myths that have beclouded the issue.

It seemed furthermore useful to establish beyond question the great importance to the American public of the matter we shall be considering.

The interest on our national debt is in the neighborhood of $35 billion this year. I might call attention to the committee that with $35 billion the United States Government could pay the entire present cost of the Medicare program, the Medicaid program, the highway program, the running of our agricultural program and the program for the development of our water and power resources, including conservation, and recreational purposes. We could pay all of this out of what we are paying for interest.

I am indebted to many people for help on this resolution. For over 25 years I have struggled with the job of trying to write a constitutional amendment that would put the Federal government on a pay-as-you-go basis. The late Senator Harry Byrd, Sr. of Virginia, and the late Senator Styles Bridges from New Hampshire and I introduced a proposed constitutional amendment. At that time we thought we had a good idea for making our proposal self-enforcing. We offered a constitutional proposal that prohibited Congress from adjourning until the budget was balanced. Time has proven that that would be ineffective, because Congress now stays in session all year long. The enforcing provision would not have been effective.

It was the distinguished Senator from Delaware, Mr. John Williams, who made the suggestion that there ought to be an automatic surtax that would go into effect if the Congress did not take the necessary steps to balance the budget by other means. Senator Williams was talking about a statutory provision. This idea, however, has been incorporated in the constitutional provision. Here is how this proposal would work.

In brief, the proposed constitutional amendment would require that budgetary deficits be offset by a uniform income surtax to be levied with respect to the calendar year immediately following the fiscal year in which the deficit was incurred. The rate of the surtax would be calculated by the President and the surtax would be imposed automatically unless suspended by Congress by reason of a grave national emergency. Section 1 of the proposed constitutional amendment requires that the Congress, in the exercise of its legislative functions, shall make all reasonable efforts to balance the Federal budget.

Section 2 of the proposed constitutional amendment requires that the President, within 20 days after the close of each fiscal year, determine the total receipts and outlays of the Federal government for such fiscal year. For this purpose, "receipts" and "outlays" are all encompassing and, specifically, include trust fund receipts and trust fund expenditures. Except as noted below, the only receipts and outlays excluded are those from the sale and redemption of debt obligation. However, interest paid with respect to the public debt is to be regarded as an "outlay" for this purpose. The term "receipts" also does not include revenue derived from any surtax imposed pursuant to the proposed constitutional amendment.

If, for a particular fiscal year, outlays exceed receipts, then section 2 of the proposed constitutional amendment requires that the President determine the rate of income tax surtax necessary to produce receipts equal to the amount by which outlays exceeded receipts. Once the President makes the foregoing determinations, he is required to submit, within the 20-day period, the surtax rate to the Congress by special message. The proposed constitutional amendment is so drafted that the income tax surtax would consist of a single uniform surtax rate applicable to all persons (both individuals and corporations) having Federal income tax liability.

Section 3 of the proposed constitutional amendment provides that the income tax surtax, at the rate determined by the President, shall apply to the calendar year immediately following the fiscal year in which the budgetary deficit was incurred. In the case of taxpayers not on a calendar basis, the income tax surtax is to apply to that portion of the income tax liability attributable to the portion of the taxpayer's fiscal year or years which fall within the calendar year for which the income tax surtax is imposed.

Section 4 of the proposed constitutional amendment permits the Congress, under carefully circumscribed standards, to suspend the income tax surtax for all or part of the calendar year with respect to which it would otherwise be imposed. Under the proposed amendment, suspension of the otherwise applicable income tax surtax requires a Congressional finding that a "grave emergency" exists. If such a finding is made, then the income tax surtax may be suspended by a concurrent resolution agreed to by a rollcall of three-fourths of all of the members of each House of Congress.

Section 5 of the proposed constitutional amendment provides that the amendment shall apply with respect to the first fiscal year beginning after ratification of the amendment.

Section 6 of the proposed constitutional amendment authorizes the enactment of appropriate legislation to enforce the amendment.

THE BUDGET IS OUT OF CONTROL

(By Carl T. Curtis)

A distinguished economist has likened managing the American economy to driving a car by looking into the rearview mirror and using the accelerator but not the brake. And that's exactly what has been happening. In fact, the car is out of control! Ralph Nader would say it's "Unsafe At Any Speed."

Let's look at the record. In fiscal year 1975, the Federal budget deficit was 44.2 billion dollars. Budget outlays were $325.1 billion, or $11.7 billion above the budget estimate.

Fiscal year 1976 will be worse. The President started out by proposing a budget with a deficit hovering around $50 billion. His mid-year review upped the projected deficit to $59.9 billion. Administration officials were predicting that it would more likely be $80 billion by year's end. And some responsible elements in both the administration and the Congress were mentioning a deficit close to $100 billion. Deficits in triple-digit billions seem to be on the way.

Those deficits are no surprise. They're the natural outcome of a lax and irresponsible attitude toward profligate Federal budgets in too many years since World War II. Federal budget deficits were incurred in every year save one since 1961, reflecting Federal expenditure increases from an expenditure budget of $97.8 billion in 1961 to an outlay of $325 billion in 1975.

I want to share with you the results of a recent careful in-depth study of government expenditures over the 20 years from 1952 to 1972. Of the 20 fiscal years from 1953 to 1972, only four had budgetary surpluses (1956, 1957, 1960 and 1969) for an aggregate surplus of $10.8 billion, while the other 16 budgets produced a combined deficit of $134.8 billion.

It took 163 years, from 1789 to 1952, for Federal expenditures for domestic purposes to reach a level of $13 billion. In the succeeding 20 years they multiplied tenfold jumping from $13 billion to $134 billion. The entire Federal domestic expenditure budget of that last year could have been financed from the combined deficits of the preceding 20 years! It boggles the mind to imagine for a minute that we could have had the equivalent of a year of domestic expenditures without any Federal taxes at all.

In those same 20 years the Federal public debt went up $182 billion—and this, by the way, was accompanied by an increase of $145 billion in the state and local debt. I speak only of the formal debt. We have committed ourselves, through authorization bills, to

vastly greater obligations. For example, the Treasury calculated the unfunded liability of the Social Security system at $2.4 trillion as of June 30, 1974!

I want to talk for a minute about "reordering national priorities", a phrase much in vogue in the past few years. No one can object to a continuous review of our national goals and to changing the emphasis of government activities to meet the needs of the times. In fact, it's healthy—if it's done honestly and forthrightly.

This has not been the case. The deficits of which I have been speaking were not caused primarily by holding expenditures level and cutting taxes. Just the opposite: they were primarily the result of ever-increasing expenditures for domestic services. In fact, deficits facilitated "reordering national priorities" toward more welfare programs. While defense expenditures in those years dropped from 54 percent of the national budget to 30 percent, the share of domestic services rose from 19 percent to 55 percent. Outlays for health, education and welfare by the Federal government increased an appalling 1,416 percent during the decades 1953–1972 alone. During those 20 years, Federal domestic services expenditures soared from 3.9 to 12.1 percent of the Gross National Product (GNP), while defense expenditures dropped from 14.3 to 7.2 percent of GNP. I submit that we reordered priorities to provide the services of a welfare state, while depriving the voters of the right to assess the costs of these services to them, either in terms of taxes or of inflation. Instead, we added nearly $135 billion to the Federal debt.

In fiscal years 1975 and 1976 the cumulative additional deficits may well be $140 billion more. I further submit that this method of "reordering national priorities" is flagrantly dishonest. One recent study carefully cataloged the sudden and unprecedented explosion of Federal activities in the broad field of social welfare and observed: "Had this been financed by equivalent boosts in taxes, the American people would have been fully aware of what was happening. But the primary methods of financing the multiplication of social benefits and services, to the extent to which the added expenditures exceeded the automatic growth of revenues from economic advance, were (a) budgetary deficits, that is, inflation, and (b) a cut to less than half in the share of resources allocated to national security."

Deficits incurred in this way carry the false message that we can get something for nothing. Our appetite for private goods is disciplined by the necessity of paying for them. Public services financed by deficits appear to be "for free". No wonder government prefers deficit-induced inflation to taxation. The battle cry today appears to be "representation without taxation".

And let there be no doubt that inflation in the United States in recent years has been partially fired by Federal deficit spending. Again, let's look at the record. There have been four periods characterized by inflation since World War II. In the initial years of each period the Federal government incurred a significant budget deficit. Furthermore, we have had nearly catastrophic inflation in the United States beginning with the "guns and butter" excesses of the Johnson administration. And Federal deficits were incurred in every year save one since 1961. Inflation reached double digit proportions in 1974. Double-digit billion dollar deficits were incurred in 1971, 1972, 1973 and 1975. Some forecasts suggest we are flirting with triple-digit deficit billions as early as the current fiscal year. And we're supposed to be fighting inflation.

Let's be blunt with the spectres raised by a deficit of $80 billion in a single fiscal year. This order of debt must be financed in two ways: by Treasury borrowing in the money markets and by expansion of the money supply. Treasury borrowing will hike interest rates and provide competition with business for private capital, thus slowing business expansion and dampening growth in the job market. Expansion of the money supply is tantamount to printing more money to fire inflation. We are fighting inflation by soaking up investment capital which could help provide jobs on the one hand, and by creating more money to drive up prices on the other. I submit this is truly a self-defeating policy.

This paradox is compounded in another way. Part of the deficit is created by temporary tax cuts to spur the economy. But the greater part of the deficit is incurred by greater spending. These spending policies contribute to inflationary prices that are really hidden taxes. By what other name than a tax can you call the result of policies that produce higher money incomes but lower real incomes? In 1974, real disposable income decreased by 3.4 percent. While real incomes decrease, money incomes rise. This puts some people in higher tax brackets and their tax bills increase. For the economy as a whole it has been demonstrated that tax revenues rise much more rapidly than money income during a period of rapid price increases. Recent studies estimate that a 10 percent inflation rate would increase tax revenues by 14.7 percent in one year alone.

What is still more unconscionable is that the poor, the aged, and others on fixed incomes must pay most heavily. In 1974, inflation increased the direct tax burden on low and middle income taxpayers more than on wealthy individuals. And that was the year that real disposable income declined by 3.4 percent. We are in effect asking poorer wage earners and the aged and the sick to foot the bill to help provide jobs or out-and-out welfare for the young and resilient.

Continued inflation can be debilitating enough. But America has been plagued recently by a new economic disease: Stagflation. Persistent inflation is accompanied by persistently intolerably levels of unemployment. Keynesian economists have cried spend more! Create greater Federal deficits, and unemployment will abate. But anyone who will open his eyes to reality will see that this has failed. Instead of more jobs, we have continued high unemployment and higher prices. It is abundantly apparent that the days of the 1960's when economists believed that they had discovered how to "scientifically manage" the economy are long past—if they ever existed. Some of us are beginning to admit this. The Federal Reserve Board of St. Louis believes that increases in government spending and budget deficits are the fundamental cause of monetary expansion and inflation.

I have titled my remarks on deficit spending "The Budget Is Out of Control", and I submit that deficit spending has resulted in a stagflation that is out of control. But there is another way in which things are out of control. Federal expenditures themselves are out of control. In the budget which Congress considered for fiscal year 1976, only about 25 percent of Federal expenditures are controllable without major revisions of authorized Federal programs. This compares with 40 percent in 1967. And for many practical reasons the 25 percent figure is much too high. In any practical sense, only $3 to $4 billion of national defense and international program budgets are controllable in fiscal year 1976 and only $2 to $3 billion of the domestic budget are controllable in this year. Spending not only has consistently increased, but apparently "practical" and political forces keep it at high levels. A recent Brookings Institution publication stated: "How can fiscal policy be used to temper an inflationary surge in the economy when spending is fixed? The answer is Taxes."

But we all know that Presidents and Congresses run from raising taxes. The result in recent years has been uncontrolled deficits, uncontrolled inflation and uncontrolled growth in government. I might point out here that the tentacles of the Federal government have reached down into state and local governments by grants-in-aid to make their budgets uncontrollable as well.

This is another, more frightening dimension in which things are getting out of control as a result of deficits, profligate spending and bigger government. That is the very fabric of the American society. Teachers, police and garbagemen scramble pell-mell for the cities' dollars by potentially crippling strikes. The aged and the poor have to scramble for the largessee of government to help maintain a decent standard of living as inflation is rampant. Financial institutions are weakened, some on the brink of collapse. There are appalling increases in white-collar and violent crimes. High interest rates and tighter money stifle homebuilding and indirectly may stifle homemaking itself. And all the government's money and all the government's men can't seem to put an effective education system together again. Even liberal economist Walter Heller has observed, "When inflation reaches double-digit proportions, the costs in terms of social conflicts and tensions it generates and the uncertainties and loss of confidence in the dollar yardstick it may breed are important intangibles that economics cannot ignore. . . .".

The saddest paradox of all is that as government expenditures, government deficits and economic inflation get out of control, the government itself tries to impose more and more control. Individuals and businesses also lose control to the government. I need not go into the many areas of our lives subject to government control; they have been well documented. But since we've been exploring inflation let me point out one fact. In every serious inflationary period since World War II, wage and/or price controls have been proposed or imposed for the U.S. economy. The current jargon for controls or guidelines is "incomes policy."

Economist Roger Freeman forcefully has cast the issue stating: "The basic philosophical and political issue is, of course, personal freedom. If we define personal freedom as the ability of the individual to make meaningful choices among known alternatives, then it follows that the extent of his freedom depends on the range of decisions he can make for himself and his family in comparison to those being made for him. One possible measurement of an individual's freedom is the share of his economic resources he can allocate to his various wants according to his own wishes versus the share the Government allots for him."

I propose that we regain the control of government expenditures. I propose that we give back to individuals and businesses the control of their affairs. I propose that we require the Federal budget to be balanced.

THE DEMOCRATIC FORUMS

Mr. McGOVERN. Mr. President, on the weekend of September 13 and 14 in Minneapolis, Minn., some 1,500 Democrats from 10 Midwestern States participated in the first of five regional Democratic conferences.

My own State of South Dakota was represented by Gov. Richard Kneip, who participated in the panel questioning Democratic Presidential candidates, and others.

The chief organizer of these Democratic conferences is Congressman DONALD FRASER. Congressman FRASER, who served with me on the original Commission on

Delegate Selection and succeeded me as its chairman, has made a unique and continuing contribution to the strengthening of our political parties. His recent success in bringing together the various constituent groups sponsoring the Democratic conference is to be particularly commended.

I ask unanimous consent that the following article by David Broder in the September 17 edition of the Washington Post, further outlining Congressman FRASER's contribution, be printed in the RECORD.

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

A DEMOCRATIC MORALE BOOSTER

(By David S. Broder)

MINNEAPOLIS.—"As one who has been an involved citizen for many, many years, working on the issues, and became very turned off on my party for a period of time, today has been a great morale booster."

That comment came from a 62-year-old housewife who had just spent seven hours listening to five Democratic presidential hopefuls speak and answer questions here last weekend, at the first of five regional candidates' forums.

The "ballot" on which she wrote her comment was used by this reporter in an informal poll of candidate preferences among those in attendance. But her comment may be of greater significance than the results of the poll, which favored Rep. Morris K. Udall of Arizona.

For months now, Democrats have been telling each other that they have "a bunch of nobodies" running for President. These candidate forums, which will be repeated over the next two months in Springfield, Mass., Baltimore, Atlanta and Los Angeles, seem likely to destroy that myth—and perhaps launch someone into the early primaries with a momentum he could not otherwise have obtained.

"I haven't really made up my mind," a 31-year-old political volunteer wrote on her ballot, "but I have not heard such a succession of talent, creativity, and sense in a political meeting in my life . . . I don't think the Democrats of the country would lose from choosing any of these candidates."

That kind of response—and the turnout of more than 1,500 Democrats from 10 Midwestern states—exceeded the fondest hopes of the forums' principal organizer, Rep. Donold M. Fraser, the Minneapolis Democrat.

Fraser is an interesting case. The 51-year-old lawyer has specialized in foreign affairs since coming to the House in 1962. He is scholarly, almost pendantic, and anything but a back-slapper. Yet he has moved, by sheer merit, into a leadership role in the liberal movement inside and outside Congress, heading both the House Democratic Study Group and the national Americans for Democratic Action.

Since he succeeded George McGovern as the head of the delegate selection commission in 1971, Fraser has also been a key figure in the party reform movement—and a thorn in the side of party regulars.

That is ironic, because Fraser can claim credit for the two really original party-building institutions of this era. He fought long and hard for the mid-term Democratic mini-convention held last December in Kansas City. Despite all the advance warnings of trouble, Kansas City let the party demonstrate its recovery from the wounds of the 1968 and 1972 conventions and practice the negotiating skills it will need to avoid another bloodletting at the 1976 convention.

Now, through the candidate forums, Fraser has found a way to let party activists assert their influence in the nomination process against the pervasive power of the proliferating primaries—primaries which permit the casual bystander, the independent or, in some states, even the registered Republican a determining voice in the choice of the Democratic nominee.

The candidate forums—like the Kansas City mini-convention—serve what Fraser rightly sees as the essential task of party-building. That is the construction of informal but effective communications networks, across state lines, for Democrats who are more interested in the long-term development of their party and its programs than they are in the short-term success of any particular candidate.

The forums may also help provide a consensus on the 1976 candidate—which would be an added benefit. They are not "official" party functions, but the success of the Minneapolis kickoff indicates they will draw large number of the activist Democrats who dominated Miami Beach in 1972 and Kansas City in 1974—and who will probably in New York City next July.

The forums are sponsored by the liberal trade unions, the auto and communications workers and the public employees' groups, the women's caucus and other elements of the emerging Democratic coalition. They are too strong for anyone to ignore their influence.

Five candidates showed up in Minneapolis—Udall, Sen. Birch Bayh of Indiana, ex-Sen. Fred R. Harris of Oklahoma, Pennsylvania Gov. Milton Shapp and former North Carolina Gov. Terry Sanford. At the next session, in Springfield, Mass., those five will be joined by former Georgia Gov. Jimmy Carter and 1972 vice presidential nominee R. Sargent Shriver.

Their presence puts pressure on the three more conservative presidential contenders—Alabama Gov. George C. Wallace, Sen. Lloyd M. Bentsen Jr. of Texas and Sen. Henry M. Jackson of Washington—who so far have not included any of the forums on their fall schedules.

All three decided to show up at Kansas City last December, and it would not be surprising to see the same decision made about the forums.

Once again, Don Fraser has started something of major importance—and usefulness to his party.

STATEMENTS BY SENATOR PHILIP A. HART

Mr. NELSON. Mr. President, I ask unanimous consent that two statements by the Senator from Michigan (Mr. PHILIP A. HART) regarding the Comprehensive Employment Act and the 90-day extension of the Federal Insecticide, Fungicide, and Rodenticide Act, together with a recent Washington Post editorial and a column by Mr. Marquis Childs, and statements on the pesticides reauthorization question by eminent scientists, among them Dr. Margaret Mead and Dr. Rene Dubos, attached thereto, be printed in the RECORD.

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

STATEMENT OF SENATOR PHILIP A. HART ON THE COMPREHENSIVE EMPLOYMENT TRAINING ACT

While the Congress hears various complaints about the effectiveness and value of the Comprehensive Employment Training Act—particularly the public-service portion of the program—I have recently received some statistics from Saginaw, Michigan, which show successful results of the legislation. I think the figures will be of interest to my colleagues.

For FY 1975, for both Title II and Title VI programs, administration costs came to $5,807, or, less than $6,000 for the entire Saginaw program. Meanwhile, wages and benefits for 109 persons employed under the program totaled $373,766.

The 109 were selected for the program in accordance with priorities set by the Saginaw County Manpower Development Planning Council. Minorities were given first priority; female heads of household, second; disabled persons, third; youth, fourth; veterans, fifth, and other low income, sixth.

Of the 109 employed under the program in FY 1975 28 were white males; 14, white females; 22, black males; 20, black females; 16, Mexican-American males; 8, Mexican-American females, and 1, American Indian, male.

In line with the priority selection, 55 of the 109 were minorities; 13, female heads of household; 2, disabled; 23, youths; 8, veterans, and 20, other low income.

These statistics show, I believe, that Title II and Title VI funds are effectively reaching those unemployed Congress hoped to help when it passed the legislation.

STATEMENT OF SENATOR PHILIP A. HART ON S. 2375

Yesterday the Senate passed by voice vote S. 2375, a ninety day extension of authority for funds for the Environmental Protection Agency to implement the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). EPA is already operating under a ninety day extension of authority enacted last July, and this will expire on September 30.

I would have preferred to have resolved this issue by reauthorizing implementation of this statute for a two year period, as requested by EPA and the Administration last spring. EPA is still in the process of setting up the new regulatory framework for pesticides mandated by the 1972 Amendments to the FIFRA. Those amendments established a four year program to bring this improved regulatory system into being. With more than a year to go before implementation is complete and no experience operating under this system as a whole, it seems premature to me to consider major changes in the law.

Such changes, however, have been recommended by the House Committee on Agriculture—to the effect of substantially weakening the regulatory program for pesticides so painstakingly developed in 1972. The Committee's recommendations will be considered by the full House later this week. While I hope that those House members who share my belief that any change now is premature will succeed in securing a straight two year reauthorization, this prospect is by no means certain. In the event that the House does adopt substantive changes, the Senate would not have an opportunity to consider them adequately either in Committee or on the floor before the current authorization expires. It is my understanding that the Chairman of the House Agriculture Committee, in addition to seeking action on the Committee bill, will urge approval of S. 2375, the ninety day extension, in order that the Senate will have a full opportunity to consider the issues involved. It is based on this understanding that S. 2375 had my support.

My distinguished colleague from Georgia, the Chairman of the Senate Committee on Agriculture (Mr. Talmadge) will, I know, give this issue his utmost attention. As Chairman of the Commerce Committee's Environment Subcommittee, I stand willing to provide whatever assistance I can based upon the Subcommittee's oversight hearings on the FIFRA. It is my hope that, after considering any changes adopted by the House,

the Senate will be able to approach a conference with a full record on these vital issues.

I ask unanimous consent that the following statements on the pesticides reauthorization question by eminent scientists, among them, Dr. Margaret Mead and Dr. Rene Dubos, be printed in the RECORD.

Also, I ask unanimous consent that a recent *Washington Post* editorial and a column by Mr. Marquis Childs be printed in the RECORD.

STATEMENT OF MARGARET MEAD, DISTINGUISHED ANTHROPOLOGIST AND PRESIDENT OF THE AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE

The Environmental Protection Agency bridges the gap between government agencies whose mandates are so narrow that they cannot protect the environment. The United States Department of Agriculture at present is charged with increasing production and protecting the interests of the agricultural community in this country. Until we have other ways in which an agency primarily concerned with production can also participate in the protection of our steadily deteriorating national heritage of soil, water and air, it is essential that the power of the Environmental Protection Agency should not be eroded. Passage of amendments to Public Law 92–516, the Federal Environmental Pesticide Control Act, known as FEPCA, which propose to pre-empt or weaken the administrative authority of the Environmental Protection Agency over the act by giving veto power or the means of delaying action to the Department of Agriculture, thereby returning the control of pesticides to the Department of Agriculture, would set a dangerous precedent.

Dr. F. Thomas Turpin, research entomologist at Purdue University: "Any weakening of the Federal Environmental Pesticide Control Act now, giving the U.S. Department of Agriculture veto or delaying power over pesticide regulation, would put us back to pre-EPA days. Allowing self-certification of pesticide applicators would destroy the certification program as we envision it. The EPA certification plan will give us an accurate idea of farmers' present use of pesticides and will require farmers to keep current on methods and products."

Statement from Dr. Marvin Legator, geneticist, formerly Chief of the Cell Biology Branch, FDA, now at the Department of Medicine, Brown University, co-author of "The Mutagenicity of Pesticides," M.I.T. Press, 1972: "The Environmental Protection Agency has such an important role in consumer protection that to diminish its regulatory powers in any way would not be in the interest of the general public, and must be avoided."—Providence, R.I., September 12, 1975.

Statement from Dr. Steven G. Herman, member of the faculty of Biology at the Evergreen State College, Olympia, Washington. He has studied the effects of pesticides on forest ecology: "As a person seriously concerned about the effects of pesticides on wildlife, I urge that all precautions be taken to avoid jeopardizing the current authority of the Environmental Protection Agency with regard to poisons that may cause ecosystemic damage.

"The Douglas Fir-Tussock Moth—DDT controversy of 1973–74 in the Northwest demonstrated the appropriateness of this authority and the essentiality of the EPA role.

"While I disagree with the 1974 decision by the EPA to allow use of DDT, I am comforted in part by the knowledge that that decision was reached only after exhaustive public hearings hosted by the EPA, hearings at which scientists and other citizens were able to testify. As discomforting as it was, the decision issued from an open forum.

"EPA is doing its job. It provides the kind of expertise and balance on the pesticide issue that is unavailable elsewhere in the government, and least of all in the U.S. Department of Agriculture."

Statement of Professor Rene Dubos, The Rockefeller University, New York: "As administered during the past three years, the pesticide Act of 1972 has been remarkably effective in reversing some of the damage done by DDT to animal life in general and bird life in particular.

"I am opposed to the proposed amendment of this Act because it threatens to prevent the continuation of policies which have had desirable environmental effects and which must continue to be strictly applied if these beneficial effects are to be maintained and expanded."

Statement of Dr. Richard Goodwin, Professor of Botany, Connecticut College: "I am in favor of at least as strong legislation as we have now, and am thus against any weakening of the existing act when it is reauthorized."

Statement Dr. Clarence W. Tarzwell, Senior Research Adviser, in water quality, EPA; former Aquatic Biologist with the U.S. Forest Service, Tennessee Valley Authority, and U.S. Public Health Service: "It is my considered opinion and judgment that pesticide use must be controlled and that such control should be given to a federal agency which is charged with the protection of the environment and is not active in the use or in the recommending of the use of pesticides. Further it is my judgment that the present Pesticide Act, with certain improvements and strengthening should be passed with no termination date and be under the jurisdiction of the EPA."

"These opinions and judgments are based on the following:

"1. Experience with the application of pesticides and their effects beginning in 1939.

"2. Extensive field studies of the effects of six different pesticides on aquatic organisms.

"3. Extensive laboratory bioassay investigation of the toxicity of a large number of synthetic organic pesticides on a variety of aquatic life.

"4. Knowledge, first hand and from the literature, of the long term effects of pesticides on non-target organisms and of their bioaccumulation.

"5. Experience with the toxicity of runoff from areas treated with pesticides.

"6. Experience with and knowledge of the attitudes, actions and procedures of the Department of Agriculture and its backers in regard to pesticide use, gained in committee hearings and other contacts.

"7. Judgment that an organization that uses or recommends the use of only about one-third of the various pesticides should not have veto power over decisions or the power to delay actions of the organization responsible for the protection of all the people and their environment.

"8. Judgment is based on pertinent experience with the following organizations since 1930: Michigan Institute for Fisheries Research, U.S. Bureau of Fisheries, U.S. Forest Service, T.V.A., U.S. Public Health Service (24 years) and water quality research with FWPCA, FWQA, Department of Interior, and EPA."

Dr. John L. George, Professor of Wildlife Management, Pennsylvania State University: "On the basis of 30 years of research on the ecological effects of chemical pest control, I feel that certain of the proposed amendments to the 1972 Federal Environmental Pesticide Control Act would be most unfortunate if enacted into law. Requirements that the Secretary of Agriculture concur with the EPA Administrator before the use of dangerous chemicals could be cancelled would give certain pest control interests undue influence in determining policy in the use of such chemicals. The U.S. Department of Agriculture has a conflict of interest in this regard since it has principal responsibility for commodity production.

"Such decisions should be made by the EPA Administrator who can make the decisions dispassionately after review of the facts, considering the total public welfare.

"Anyone who uses deadly chemicals should certainly pass reasonable certification requirements, and not be able to certify himself. Everyone with whom I have spoken in Pennsylvania about EPA's existing certification plan feels that it would be a very good thing for all concerned."

ANOTHER EFFORT AGAINST PESTICIDE CONTROL

Several weeks ago, the House Agriculture Committee rejected an amendment that clearly deserved rejection. The amendment in question would have altered the Federal Insecticide, Fungicide and Rodenticide Act by giving the Secretary of Agriculture authority to exercise the regulatory powers of the Environmental Protection Agency when the latter acted to suspend dangerous pesticides. Environmental groups were able to head off the proposed amendment; as Russell Train of EPA noted, there is a "potential conflict of interest" in the USDA's involvement in regulating pesticides because its function is to promote agricultural production, not monitor the health hazards of chemicals.

Rather than accepting the verdict of the committee and adjusting to the world of the 1970s, agribusiness and chemical companies are now back with other amendments. Although not as strong as the proposal already rejected, the new ones have much the same effect: weakening the powers of EPA when it seeks to move against a pesticide. With support from the Department of Agriculture, the pesticide lobby appears intent on bringing back the old days when high crops yields were the overriding goal, and never mind the effect of pesticides on human health and the environment.

EPA has shown itself to be a fair regulator. Originally, it was given its responsibilities because the USDA showed little interest in the issue. In addition, the law creating EPA's powers was fully debated before enactment in 1972. Nothing has happened to suggest either that the law is unwise or that EPA is unjust. That being the case, there is no reason to change the way that the regulations governing pesticides are enforced.

THE ENVIRONMENT: A DISMAL PROSPECT

(By Marquis Childs)

The epitaph that the poet John Keats proposed in despair at the close of his short life was, "Here lies one whose name was writ on water." While the enduring beauty of Keats' poetry has stood the test of time, that epitaph could serve for those swelling the flow of ephemeral writing that is pouring off the presses in increasing volume.

But there are notable exceptions and one is a book that stirred a storm of controversy and brought a major change in the national environment. Rachel Carson's "Silent Spring," published in 1961, dramatized the threat of the pesticide DDT to bird and animal life. So strong was the protest "Silent Spring" aroused that Congress enacted drastic restraints on the indiscriminate use of DDT.

Once again the issue is in the news over proposed amendments that environmentalists charge would greatly weaken these restraints. The Department of Agriculture would be given in effect a veto power over rulings of the Environmental Protection Agency. The way would be open for wholesale use of the pesticide that had begun to work such havoc on wildlife.

The issue is, however, broader than DDT. It covers a wide range, pitting the environmentalists against business and industrial interests who contend that crusading extremists are seriously hampering American productivity. This argument is reinforced by the recession and its import on industrial output.

Russell Train, the embattled head of the Environmental Protection Agency, is fighting to hold emission standards on the motor car while Detroit insists that this will increase car prices, contributing to inflation, and cut down output. Standards are being pushed back in response to this contention and the smog pollution hanging over most major cities is not likely to decrease.

A considerable part of the scientific community has expressed concern over the aerosol spray device and the possible degradation of the protective layer of ozone in the upper atmosphere. Not so, says Robert H. Ablanalp whose patents cover the device on shaving cream, hair sprays and a multitude of other uses. Thanks to his large fortune, this close friend of Richard Nixon was able to provide the former President with a retreat on the Bahamian bay he owns as the network of Watergate closed around him.

The conflict over admission of the Concorde, the supersonic aircraft on which Britain and France have put such a large stake, is certain to grow. The environmentalists charge that allowing it to land at Kennedy and Dulles airports would contribute not only to noise pollution but it would also endanger the protective layer that screens radiation from the sun.

The federal government has authority to grant landing rights at Dulles while the power over Kennedy rests in New York. In any event, a court suit is certain to challenge any affirmative action. This could mean long delays with the British and French increasingly annoyed, since New York in particular is a major traffic center. Denial might even mean some form of retaliation on landing rights for Paris and London, so intense is the feeling about the Concorde and the chances to recover some of the several billion dollars put into its development.

This is only to touch on certain of the areas where environment is pitted against development and production. Strip mining and the exploitation of coal deposits in the wide open spaces of the West are the focus of sharp controversy as the demand for sources of energy to supplant oil grows in volume.

The environmentalists have their freaky, far-out fringe. But the roots of conservation and saving America's natural beauty go deep into the early years of this century. We had great naturalists such as John Muir who wrote with devotion and a kind of poetry of the splendors of an America untouched by the developer and the highway builder.

A country sealed over with concrete is a sterile and depressing prospect. The ever growing number of species vanishing before the onrush of "progress" leave us with precious survivors. It was a response to this dismal prospect that Rachel Carson stirred in "Silent Spring." And the environmentalists are going into action to try to save the gains she helped to bring about.

A BALANCED FEDERAL BUDGET

Mr. FANNIN. Mr. President, yesterday, I had the privilege of testifying before the Subcommittee on Constitutional Amendments in support of Senate Joint Resolution 55, a proposed constitutional amendment mandating a balanced Federal budget, except in cases of national emergency declared by Congress. My fellow cosponsors of Senate Joint Resolution 55 and I, appreciate the chairman's scheduling hearings on this vital and timely issue.

I ask unanimous consent that my statement before the subcommittee be printed in the RECORD.

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

TESTIMONY OF SENATOR FANNIN BEFORE JUDICIARY SUBCOMMITTEE ON CONSTITUTIONAL AMENDMENTS

Mr. Chairman: It is a pleasure for me to have an opportunity to testify today before this distinguished subcommittee. I join my fellow cosponsors of S.J. Res. 55 as well as those of S.J. Res. 93 in extending my sincere appreciation for your conducting hearings on this vital issue.

Mr. Chairman, I am here today because I am deeply concerned about the present and future financial integrity of the United States. It is clear to me that our economy cannot stand much more of the wild, fiscally irresponsible policies which have emanated out of Washington during the last fifteen years. The giant spending machine which the Legislative and the Executive branches have promoted has reached the point of being uncontrollable. Political commitments and automatic formula increases have expanded the Federal budget at a truly incredible rate.

During my years in the Senate the Federal budget has increased from almost $117 billion in FY '65 to a projected $367 billion in FY '76, an increase of over two hundred percent. Despite several good years economically during that period the Federal Government completed only one year with a surplus. As I have pointed out before, while the majority of my colleagues' profess to follow the economic principles of John Maynard Keynes, it is apparent they have only bought one-half—the deficit spending side.

Mr. Chairman, as you know, the deficit for fiscal year 1976 will be somewhere between $59.9 million if you agree with the President, and $68.8 billion if you agree with the Budget Committee of Congress. Next year's deficit could be even larger. I am convinced that our economy cannot absorb these deficits without causing disastrous, long term problems in the private sector. Again, as I have stated before, this year's so-called "stimulative" budget could easily become an "abortive" budget for the economic recovery.

Our economy needs to expand its capacity before the multitudes of unemployed are back in productive roles. That expansion will not take place if the private sector does not have the necessary financial sources from which to borrow. Every economic recovery reaches a point where new borrowing is essential. The recovery we are beginning to experience may be short lived if all sources of private borrowing are soaked up by the Federal deficit. Increased capital investment is the best answer to our economic difficulties. Government spending will never qualify as a substitute for investment in the private sector.

Mr. Chairman, I would like to take a few minutes to discuss an aspect of Federal deficit spending which few people consider. That is how state and local governments are affected by Federal deficit spending.

There is no question that the most spectacular growth in American government in the last two decades has been by States and localities. From 1952 to 1972 State and local expenditures increased from $25.2 billion to $164 billion, an increase of 550 percent. During those two decades, State and local debt rose by $145 billion.

Expanded State and local budgets and debts have occurred largely because of stimulation by Federal programs. These programs have resulted from the ease with which the Federal government can incur deficits to provide for new grant-in-aid programs, without facing the difficult task of raising taxes for such programs.

The increase in Federal assistance to State and local governments has been nothing short of phenomenal. The $3 billion in Federal aid in 1955 grew to $52 billion in 1975. During that same period, grant-in-aid programs increased more than ten-fold from less than 100 to more than 1,000. Federal money constituted 18.4 percent of State and local expenditures in 1965. In 1974 that figure rose to 32.4 percent.

Since such programs require State and local matching funds, State and local budgets and taxes steadily increase. Capital expansion projects cannot be funded from current receipts, thereby resulting in higher State and local debts.

There are additional problems for States and localities created by the recent proliferation of Federal programs. Important among these is the recurring problem that grant-in-aid programs often are funded for narrow programmatic expenditures. This results in States and localities being incapable of spending dollars where the immediate needs may be. Another problem is the lack of adequate planning connected with Federal deficit spending. The ability to spend without restraint often leads to unexpected program money which must be sought immediately by States or lost to someone else. Such haste invariably makes waste.

Mr. Chairman, the effect of Federal spending on State and local governments is but one aspect of the serious problem confronting us. I am convinced that affirmative steps must be taken to bring Federal spending under control. The new budget procedures are admirable insofar as they go. However, the problem remains that expenditures are not required to meet receipts. S.J. Res. 55 proposes a constitutional amendment requiring a balanced budget. Emergency situations may occur which would necessitate deficit spending. The amendment's language takes such emergency situations into account by allowing for its suspension by a concurrent resolution agreed to by a roll call vote of three-fourths of all the members of each House of Congress.

I encourage this Committee to take positive and quick action on S.J. Res. 55 so that the full Senate may have an opportunity to debate this issue. It is my hope that the States will soon have an opportunity to act on this proposed amendment. I am confident that the majority of Americans want their government to operate on a sound fiscal policy.

If the average voter's desires are expressed by the Congress and the State legislatures, this amendment will become law.

TODAY'S CUBA

Mr. McGOVERN. Mr. President, during my visit to Cuba last spring, I was accompanied by several outstanding journalists. During the following weeks, many of them prepared analyses of current conditions in Cuba and of Cuban-American relations.

I think these reports provide a number of valuable insights and it is an honor for me to insert them in the RECORD. I ask unanimous consent that they be printed in the RECORD.

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

[From the Los Angeles Times, May 9, 1975]

CASTRO SIGNALS HE IS READY FOR U.S. TIES

(By Stanley Meisler)

HAVANA.—Premier Fidel Castro used the visit of Sen. George S. McGovern (D.-S.D.)

this week to send an array of signals to the United States that makes it clear he is ready to repair relations.

He spent an extraordinary amount of time with the visiting American, 9½ hours in all, guiding him on tours of dairy lands in the day and Havana at night, continually discussing the troubled relations between Cuba and the United States.

Castro also took care to please and charm the group of American newsmen that accompanied the senator. And he seemed to soften an earlier demand that the United States must lift its total economic blockade before there can be negotiations between the two countries.

While he repeated this demand at a news conference in the Palace of the Revolution Wednesday night, he also told American newsmen that even a small gesture from the United States would help.

"The United States has prohibited the export of even food and medicine to Cuba," he said. "The removal of the ban can be a small gesture . . . we would prefer the lifting of the entire embargo, but we are talking about the need for a gesture."

Castro insisted that there was little that Cuba could do. It had signed the antihijacking agreement in 1973 that provides for the deportation or jailing of plane hijackers.

"But the situation is not equal," Castro said. "We do not have an embargo against the United States. We do not have a base in Florida or some other part of the United States (like the U.S. naval base in Guantanamo, Cuba). If we did, we could make a grand gesture and remove our embargo and shut down our base in Florida. But we can't make a grand gesture like that."

McGovern, at a news conference Thursday, said, "I tend to share their view that the next step is up to us." McGovern said that he believed the Administration had failed to realize the significance of Cuba's signing of the antihijacking agreement.

In McGovern's view, the signing was an important concession on the part of Cuba that demanded a concession in turn from the United States.

In a lighter vein, McGovern said he proposed to Castro—and Castro liked the idea—of using baseball and basketball to help break the ice between Cuba and the United States in the same way that "Ping-Pong diplomacy" helped thaw U.S.-China relations.

"It is quite possible basketball and baseball teams from the U.S. would be flying here soon," said the senator.

McGovern, who returned to Washington Thursday after a four-day visit, said he would try to impress upon the Ford Administration the importance of lifting the embargo.

"I think it should be lifted," said McGovern. "It is a very foolish and self-defeating policy . . .

"It is not only a question of survival," he went on. "They can survive. It's a matter of national pride."

Conscious of how public opinion is formed in the United States, Castro took advantage of the McGovern visit to play up to the group of almost 30 American press people, especially those with television cameras.

On Wednesday afternoon, while the news people were waiting for McGovern in the Picadura Valley, 30 miles northeast of here, a caravan of Russian jeeps and Argentine-made Ford Falcons emerged slowly over the hills. As the lead jeep came closer, newsmen realized that its driver was Castro himself, holding a cigar and wearing his green army uniform and fatigue cap. McGovern sat next to him. The Senator's wife, Eleanor, an interpreter and a Cuban minister were in the back seat.

Castro stopped the jeep. "Which one is Barbara?" he called out.

Barbara Walters, who hosts NBC's Today show, was ushered to him. The prime minister shook her hand, expressing his pleasure at meeting the American television celebrity. He then invited the press to follow the caravan.

The tour became a television producer's delight.

Castro, who grew up on a cattle farm, would stop at dairy farms to show the senator from a farm state the new Cuban breed of hybrid cattle from Canadian Holsteins and Cuban Cebus. While the cattle mooed long and loudly, the prime minister explained how Cuba expected to benefit from the milk production of the Holstein strain and the resistance to heat of the Cebu strain.

Both men smoke cigars. The television cameras came so close that it was sometimes difficult for either to see a cow. But neither Castro nor his aides made any attempt to keep the reporters and cameras more than a few inches away.

On this day of conciliation and good feelings, Castro told American newsmen in English, "We belong to two different worlds. But we are neighbors. We owe it to each other to live together."

The spirit was probably caught best in the town of Nuevo Jibacoa, where a few hundred workers on the state dairy farms live.

With McGovern at his side, Castro munching on a soft ice cream cone, walked into a crowd of Cubans and called out, "Who is going to invite us into his house?"

Two women pulled at his sleeves. "Not me," Castro said, "the senator."

They let go of his sleeves and rushed at Sen. McGovern. Each pulled one of his arms. Finally, Mrs. Nemecio Gutierrez, a black, heavy-set wife of a farmer, won. Clutching the hand of the senator, she led him, Castro, and the newsmen into her small apartment on the second floor of a public housing project for the valley's workers.

In the apartment, McGovern sat with a small Cuban girl on his lap while Castro asked Mrs. Gutierrez and her husband questions about the size of their family and their life in the town.

Later, as they were leaving the town, a woman, explaining that the town's new supermarket would be completed in the middle of June, suggested that Castro and McGovern stay for a while to tour the supermarket and the rest of the town. "But we do not have the time," Castro said. "I will come back," McGovern said, "when the supermarket is finished."

When his comment was translated into Spanish, the crowd broke into applause.

Toward the end of the afternoon Castro drove McGovern to the Havana Club rum distillery. After both McGovern and Castro sampled sips of the rum, Castro grimaced but announced, "It is very good." But he also said that it had an alcoholic content of 75%.

Alluding to the American embargo on the importation of goods to Cuba, Castro turned to McGovern and said, "You are the first American to taste our rum."

He then passed glasses of rum to the newsmen. Lifting his own glass, he told them, "Thank you for the publicity you are going to give Cuban rum."

At the news conference later, Castro repeated statements that had been previously reported. He told the newsmen, for example, that while the Central Intelligence Agency had been behind numerous assassination attempts against himself and other Cuban leaders, he and the Cuban government had nothing at all to do with the assassination of President John F. Kennedy.

In fact, he described Mr. Kennedy as an intelligent man who was reconsidering the U.S. government policy toward Cuba before his assassination.

Castro seemed careful to make sure he said nothing that would offend the United States or the American public. Asked how he expected to better relations with the United States after vilifying the United States with his rhetoric for 15 years, he said: "Never in the years of the revolution have I ever said a word against the people of the United States."

[From the Los Angeles Times, May 19, 1975.]

HAVANA'S COLOR—AND SQUALOR—GONE

(By Stanley Meisler)

Havana. The ubiquitous shoeshine boys are gone.

And so are the hustling petty traders on the street corners and the garish Coca-Cola signs all over. A visitor to Havana after an absence of 15 years notices this first. And then he notices the drabness.

On the surface at least, Havana, once the great metropolis of the Caribbean, is now a drab city, as if some of its vitality had drained. Yet a visitor must be careful about this impression.

Other tropical cities such as Accra and Lagos in Africa or Port-au-Prince and Kingston in the Caribbean have color and frenzy and vitality because of the street people of their societies. Underemployed traders with a few pens or a few pounds of rice hustle through the streets of these cities, hawk their wares, laugh at customers and bargain with them. Urchins prowl outside hotels to shine shoes or beg for a few coins. Idle young men laugh and joke and fight on street corners.

Though poor, Havana has almost none of this now. The shoeshine boys are in school. The idle young men are at work. Fidel Castro's communism has abolished the capitalist street hawkers and made them employes of the state in some shop or office. The color of the city is gone, but those who made that color are probably better off.

On the narrow streets of the magnificent old quarter of Havana, its stately baroque buildings standing in the salt air, only old folks idle now, sitting on stoops and sidewalks, reading the horrendous Cuban newspapers or some propaganda magazine from Poland, chatting softly with each other, basking in the glaring sun.

I did notice one petty hawker in Havana, an old man without legs or forearms, crouched in the doorwell of an abandoned shop, selling homemade address books. Communism has left this crippled remnant of capitalism alone.

Of course, Cuba's new Communist system has done more than remove the shoeshine boys and petty hawkers and idle unemployed from the streets. The government also has taken over all private enterprise. The results can be depressing to anyone used to the bounty of the shops in Western Europe or the United States.

The government has not kept open all shops and restaurants. They are not needed under a system that allows no competition. On top of this, either because of great economic miscalculations or the U.S. trade boycott, or the system itself, there are not enough goods even to fill the shops that are open.

There are what seem like abandoned sidewalk cafes near the Prado, one of the broad wrought-iron chairs and tables are still there, used like public benches. But the cushions are gone. Since the wrought-iron chairs do not have enough metal seats, the Cubans have solved the problem by putting the back of one chair on top of the seat of another. Two chairs thus make a serviceable seat.

The government has kept the name of the old stores, like Floger's Department Store and Woolworth's. But they are different now. On the Saturday before Mother's Day, Floger's had little to sell. Some counters were empty. Others had only a few pairs of East German-

made ladies' hose, or a few pairs of shoes, including ugly, rubbery plastic ones made in Cuba.

The women's department had a single rack of blouses, all pink, all of the same model. The men's department had three kinds of shirts. There were long lines downstairs at the counters selling trinkets and cosmetics for Mother's Day presents.

Woolworth's looked about the same as Floger's. Unlike most variety stores in the world, this one does not have a problem of fitting all its goods on its counters. One section of a counter, for example, had only three small packets of pens sold on ration.

All stores keep a special calendar in the window that announces which group of Cubans have the right to buy which ration goods on what day. By assigning Cubans to rationing groups, the government keeps the lines down .

Cuba has a complex rationing system. Some basic items are rationed in a specific way. Everyone, for example, gets 12 ounces of meat every nine days, 6 pounds of rice every month, 6 ounces of coffee every month, and 1½ bars of soap every month. Other items are rationed in a more general way. Cubans have coupons that can be used to buy anything from a general category like kitchen utensils or sewing supplies.

Some items are rationed and not rationed at the same time. Everyone is entitled to two packs of cigarets a week for 24 cents a pack for strong cigarets and 30 cents for mild. A Cuban, however, can buy more than his ration if he pays $1.93 a pack for strong cigarets and $2.90 for mild. Bread is rationed at one quarter of a pound per person per day. But, after 5 p.m., anyone can buy whatever is left at the bakery.

Numerous items like shampoo, plastic shoes, cookies, salt and eggs are off the ration system. Eggs, in fact, were taken off rationing April 1 and the price lowered from 11 cents to 7 cents an egg.

The government has tried to keep the prices of basic foods down to their 1960 level. Bread costs 18 cents a pound, sugar 8 cents a pound, shirts $5.40 to $6, and trousers $14.40 to $18. On the other hand, a luxury item like a television set costs $785, and the privilege of buying one goes to selected workers who have performed well at their jobs.

Although Havana is a city of almost 2 million people, it is a city without smog or traffic snarls. There simply are too few cars. Much of this is due to the trade boycotts of the United States and the Organization of American States. The Cubans could not even buy spare parts to service their American cars of the 1950s.

The car problem was relaxed somewhat last year when Argentina began selling Cuba American Ford Falcons and Italian Fiats manufactured in Argentina. Japan is also selling chassis and motors for assembling into buses in Cuba. Despite this, many cars in Cuba seem to be 20-year-old Chevrolets and Plymouths that creak along on the spare parts left by other Chevrolets and Plymouths that failed to survive.

Despite the lack of variety in the stores, the Cubans have managed a variety of dress. Cuba is not China. The men wear different open-necked shirts: guayavaras, denims, polo shirts, T-shirts. dress shirts. Some women wear slacks; some wear miniskirts so high that they would defy the prudishness of most Communist societies; some wear dresses just above the knee.

There is, however, a uniformity of quality. Everyone seems dressed in workman-like, adequate cloth without frills or tears. A visitor rarely sees a man in a suit in Havana. He also rarely sees a man in tatters. Glamor has been taken out of dress. The men do not sport flashy cuff links. The women do not wear false eyelashes.

Much of a Cuban's day is spent waiting. They wait for taxis, for buses, for newspapers, for ice cream, for cakes, for restaurants, for movies, for picture postcards. This is partly because of the shortage of goods, partly because of the shortage of services. In 10 days of crisscrossing Havana, for example, I noticed only two newspaper stands. Restaurants often keep people waiting not because of a shortage of tables but because of a shortage of waiters. Perhaps due to the large number of Cubans who have emigrated to the United States during the regime of Fidel Castro, Cuba does not have enough labor.

Surprisingly, there is almost no overt grumbling about this. People wait for a half-hour for a bus and then pack into a stiffling mass of humanity without the slightest mutter or sign of complaint to each other.

I noticed a hint of complaint only once. A man left the long line outside a movie theater on a Sunday afternoon, approached the ticket seller, shrugged, and held the palms of his hands out, as if to ask, "When are you going to let us in?" But he did not say anything.

Of course, Castro's Cuba is hardly a society that encourages dissent. The newspapers occasionally discuss popular complaints about things like the quality of bread. In one case, a newspaper boasted that it had helped obtain a new book for a reader who complained that he had bought a book that had many pages missing. But the two national newspapers are organs of the ruling Communist Party. Their job is not to criticize. In general, open opposition is not tolerated.

But this alone does not explain why people do not mutter about waiting in line. Some foreigners who live here say the people accept their inconveniences because they know that almost everyone shares them. Perhaps Castro and the other leaders of the Communist Party do not wait in line for buses. But almost everyone else does.

Cuba does not have an ostentatiously wealthy class like almost every other country of the developing world. The highest paid members of society—doctors, actors and actresses, top party leaders—earn around $725 a month. A university professor earns $530. An elementary school teacher earns between $180 and $205 a month. A steelworker averages $183 a month.

Even salaries do not tell the full story. Health care, education, electricity and public telephones are free. No one pays taxes. Everyone pays no more than 10% of his salary for rent. All this tends to lessen the difference between the richest and poorest in society.

Some people have more privileges than others. It is not clear to an outsider how this is determined, but some Cubans qualify for better housing than others or win the right to buy a new car. Productive workers earn special privileges like half-price rates at the Tropicana night club for one evening. Nevertheless, Cuba, unlike most developing countries, does not have an obvious class of governmental elite who frequent the expensive restaurants, drive around in long Mercedes-Benz limousines, and vacation in Paris.

Havana once had billboards and neon signs all over town advertising products, mostly American ones like Coca-Cola and American gas. But Cuba is no longer a consumer society in which competitors promote their wares. I did come across an old, rusting Canada Dry sign that no one had taken away. But, in general, the old signs that made Havana look like an American city are gone.

Government propaganda has taken the place of American advertising. The signs now say things like "Lenin is in our victories" or "The party is immortal" or "The party is the intelligence, the honor, the conscience of our epic." Occasionally a sign will urge Cubans to visit the resort of Varadero—"where the sea is more blue"—or will advertise the slogan of the Cuban Restaurant Workers Union—"your job is to enjoy yourself, ours is to serve you." Some signs advertise the Russian and Czechoslovakian airways. But, in general, government propaganda rules the billboards.

It does not seem oppressive, partly because the government signs are fewer than the old commercial advertising signs used to be, partly because most are tastefully done. Some of Cuba's best artists are assigned to such work. There's an impressive series of a dozen signs on the avenue leading to the Plaza of the Revolution. Each billboard shows a little bit more of a parade of workers until the final sign reveals the full parade and a slogan paying homage to May Day.

The Communist government allows worship in the churches, but religion obviously is not attractive to many of the Communist students. There other American newsmen and I attended 10:30 morning Mass on a recent Sunday at the Roman Catholic Cathedral of Havana. Someone had chalked the word "mercenary" across the door of the cathedral. But the government was restoring the tower of the 200-year-old cathedral under its program of keeping up historical monuments.

Most of the 125 people at the Mass seemed to be in their 50s and 60s. Monsignor Evelio Ramos, the auxiliary bishop of Havana, said Mass with the help of three altar boys. He wore vestments but they did not. After the Mass, we asked to speak with Bishop Ramos, but he said, "I have no time." Could he see us on another day? "I am very busy," he said.

But a parishioner did speak with us. He said that worshippers had no problems with the government. Christmas was no longer a holiday, but Catholics could celebrate Mass on Christmas Day. The annual holiday season had been switched to July carnival time. July 26, the anniversary of Castro's abortive attempt to storm the Moncada army barracks in Santiago in 1953, is officially a more important day for Cuba than Christmas. The parishioner said the same was true of the days of Holy Week. They were not official holidays, but Catholics celebrated them religiously.

"We have Easter," he said, "but we don't have an Easter parade like in New York."

Baseball is still Cuba's national sport. The revolution and the continual anti-American trades have not changed that at all. But Cuba has revolutionized the organization of baseball. There are no commercial, money-making clubs now. Entrance to all ballparks is free.

In Havana, the games are played in the Latin American Stadium, an old ballpark that was reconstructed in 1971 with a modern, electric scoreboard. The stadium seats 55,000. The dimensions of the playing field are 325 feet down each foul line and 400 feet to centerfield.

The teams are organized along amateur lines. The players do not draw salarales but get three months off from their regular jobs in the championship season. Third baseman Owen Blandino of Las Villas, for example, makes cigars when he is not playing baseball. Second baseman Ubaldo Alvarez of Havana is a dentist. Pitcher Santiago Mederos of Havana works for the Ministry of Interior.

The U.S. boycott stopped Cuba from buying its baseballs in the United States. Cuba makes its own now. But there is a shortage. For this reason, no one in the stands who catches a ball keeps it as a souvenir. The balls are dutifully thrown back. The fans applaud a good throw from the stands onto the field and boo when it falls short.

In an odd lag from the burgeois past, the government maintains the old Tropicana night club, a haven for American tourists and rich Cubans in the old days. The audience is now made up of official foreign visitors led their by their government guides, workers

who have been rewarded for their productivity by a night on the town at half price, and any Cuban who wants to spend at least $15 for an evening's entertainment and a few drinks.

The show can perhaps best be described as vintage Miami Beach of the 1950s. The show has large bands, rising stages, sliding scenery, spouting fountains, garishly colored lights, gaudy costumes, humor, belting singers, and prancing chorus girls with long legs and wiggling behinds.

Sipping a rum daiquiri or a rum mojito and taking all this in, a visitor may feel for a moment that Cuba simply cannot be Communist, that, at heart, Cuba has not changed. But he would be wrong. Cuba is Communist. Cuba has changed.

[From the Los Angeles Times, May 21, 1975]

SIX THOUSAND RUSSIANS IN CUBA KEEP OUT OF SIGHT

(By Stanley Meisler)

HAVANA.—Many cliches about the role of the Soviet Union in Cuba exist. Rep. Dante B. Fascell (D-Fla.) has said, "The Cuban people today are slaves of the Soviets." A State Department spokesman has described the situation as "the subjugation of Cuba by the Russians."

There is no doubt that the Soviet Union is enormously influential here, for it is the main economic prop of the regime of Fidel Castro. But the Cubans do not act like slaves. Nor do they seem subjugated. In fact, a visitor is struck by how unobtrusive the Russian presence seems, at least on the surface.

About 6,000 or more Russians are believed to be in Cuba, half military advisers, half economic technicians and specialists. There is no doubt that they are around. A visitor can overhear women chattering in Russian on the buses. Kiosks sell Russian newspapers. Russians can be spotted in hotel lobbies and on beaches. But an American cannot help noticing that they are far less obtrusive than 6,000 Americans would be.

It may be that Cuba officials, perhaps sensitive about their dependence on the Soviet Union, try to hide some of the evidence. During his recent visit, for example, Sen. George S. McGovern (D-S.D.) toured a steel plant that had been reconstructed by the Russians. Not a Russian technician was in sight.

Russian advisers reportedly are active within the economic councils of the government that lay down the 5-year plans. Perhaps for that reason, the five American newsmen who stayed beyond McGovern's visit were told that they could not interview anyone about the current 5-year plan.

But, though Russians may not be personally obvious in Havana, there are many reflections here of their influence and aid.

The harbor is filled almost solely with Russian ships. The bookshops sell only books printed either in Cuba or the Soviet Union. The Russian books comprise the works of Lenin, classical Russian literature, children's stories and technical textbooks, some of which have been translated into English, not English. The newspapers, especially during the week celebrating the anniversary of the defeat of Nazi Germany, brimmed with articles about Russian history and life. The philatelic bureau of the post office sells Russian stamps to collectors.

During early May, Russian movies were being shown at 24 movie theaters in Havana, a larger number than were showing the movies of any other country. Yet this meant that Russian-language movies still took second place to English-language movies for 14 theaters were showing American movies and 10 were showing British movies. Judging by the lines, the most popular movie in town was the British slapstick comedy, "Carry, On, Matron."

There are fewer Russian consumer goods than a visitor might expect. Some grocery stores had jars of Russian apple sauce for babies but little else Russian. There are some Russian cars on the streets, but they are far outnumbered by new Ford Falcons and Fiats from Argentina and old Chevrolets and Plymouths from the United States.

Many analysts believe that Russian influence has grown in the last seven years. Before 1968, there had been some friction between Castro and the Russian government. Castro had accused the Soviet Union of collaborating with his enemies, and he had dismissed from office and jailed 35 Cuban officials who were believed to have ties with the Soviet Union. The Soviet Union responded by holding down vital oil deliveries.

These relations, however, were repaired in August, 1968, when Castro became one of the few Communist leaders in the world to support the Soviet Union's invasion of Czechoslovakia. He evidently recognized how vital it was economically for Cuba not to offend the Soviet Union.

In 1970, Castro put his prestige behind a campaign to cut 10 million tons of sugar cane. He moved across the countryside exhorting all Cubans to join the harvest. Although Cuba produced more sugar that year than ever before or since, the harvest was 1.5 million tons short of its goal. Perhaps more important, the economy had been disrupted because of the numbers of Cubans who left their regular work to cut cane. Fidel's campaign was a failure.

Since then, in the view of most analysts, Castro has put economic planning in the hands of President Osvaldo Dorticos and Vice Premier Carlos Rafael Rodriguez, two men the Russians trust as planners. In addition, the two governments created a Cuban-Soviet commission of economic, scientific and technical collaboration. Analysts believe this has been a vehicle for the Soviets to exercise some supervision of economic planning.

From 1960 to 1972, according to Department of State estimates, the Soviet Union provided $6 billion worth of aid to Cuba, three-quarters economic aid, the rest military. Most analysts believe aid now runs at $2 million a day or $730 million a year. After his trip to Cuba last year, Sen. Claiborne Pell (D-R.I.) put the estimate even higher—at almost $1 billion a year.

A good deal of the aid has come in the form of credits for the purchase of Russian goods. In 1972, it was estimated that Cuba owed $2 billion to the Soviet Union. But the timing for repayment was rescheduled that year. Cuba does not have to begin repaying the Soviet Union until 1986 and will have 25 years after then to pay it all back. Considering worldwide inflation, that delay amounts to a large Russian gift.

In 1972, the Soviet Union also agreed to buy Cuban sugar at 11 cents a pound, which was then above the world market price. The Cubans, however, probably had to buy some Russian goods at premium prices.

Since then, the world sugar price has gone far above 11 cents. But some analysts believe the Russians and Cubans have negotiated a new price for sugar. Moreover, the Russians have agreed to allow the Cubans to sell all they can on the world market before shipping out the Soviet share of the harvest. The Cubans, in fact, now owe the Russians a good deal of sugar.

Cuba depends on Russia for oil, in a May 8 speech, Castro said that the Soviet Union had shipped 80 billion tons of oil to Cuba since 1960. Other Cuban sources have said that Russian oil tankers have made more than 2,800 trips to Cuba in 15 years.

Cuba is now the Soviet Union's sixth largest trading partner. In the late 1960s, Soviet trade accounted for a little less than half of all Cuba's trade, less than the percentage held by American trade before Castro's 1959 revolution. Some analysts, however, believe Soviet trade moved up to 60% in 1972, about the same as the old American percentage.

In an interview with the Cuban newspaper Juventud Rebelde (Rebellious Youth) on May 13, Boris Asonov, the economic counselor of the Soviet Embassy in Havana, said that Russian aid had helped in the remodeling or construction of 141 industrial plants in Cuba. Another 60 were under construction.

Asonov said that future projects included a textile plant able to produce 80 million square meters of cloth a year, a factory for radios and television sets, the reconstruction of the Havana-to-Santiago railway line and the installation of a nuclear energy plant. In an educational project, the Russians already have donated a nuclear reactor to the Cuban Academy of Sciences.

Far less is published in Cuba and outside about Soviet military aid. In 1970, Castro himself said that it had reached $1.5 billion. Some American analysts believe this has gone up to $2.5 billion by now. But this may be too high an estimate. When he was secretary of defense, Melvin Laird estimated Soviet military aid to Cuba at only $20 million a year in the early 1970s.

The U.S. government has been less concerned about Soviet aid to the Cuban armed forces than about Soviet "aid" that seems to help the Russians more than the Cubans. An example, of course, were the missiles the Russians finally withdrew under pressure from the United States in 1962.

[From the Los Angeles Times, May 20, 1975]

CASTRO RHETORIC: IT ALL DEPENDS ON AUDIENCE

(By Stanley Meisler)

HAVANA.—Fidel Castro of Cuba, after 16 years in power, has developed the extraordinary skill of charming visiting Americans and visiting Russians with equal ease.

He showed this clearly in early May during the visit here of Sen. George McGovern (D-S.D.). At least when American newsmen were around, the 48-year-old Castro presented himself as a man without rancor against the American people, a man of quiet sincerity and reasonableness who wanted an easing of relations with the United States.

A few hours after McGovern left Cuba, however, Castro, who is both first secretary of the Communist Party of Cuba and prime minister, addressed a rally celebrating the 30th anniversary of the Russian triumph over fascism, what Americans call VE Day, the end of World War II in Europe.

Now, in booming tones and oratorical cadence, Castro said what a visiting Russian delegation had come to hear. He denounced Yankee imperialism and thanked the Russians for supporting Cuba against it. Without the Russian victory against Nazi Germany, Castro said, Cuba could not have stood up to the Yankees.

"When the Soviets fought and died in Leningrad, in Moscow, in Stalingrad, in Kursk, in Berlin," Castro said, "they were also fighting and dying for us."

The contrasts in performance for McGovern and the Russians are not contradictory. They do not suggest deviousness. But they do suggest that there are several sides to the public personality of Fidel Castro. And, in the future, official U.S. negotiators will have to take this into account when and if they try to reach an accommodation with him.

The side of Castro that most Cubans see most often was the one presented at the rally. The rally, in fact, was televised nationally from the Lazaro Pena Theater in Havana.

The session began dramatically. The curtain swept open to reveal a group of 70 people seated against the huge mural that reproduced a famous photograph of a Russian soldier placing the Soviet flag on top of the Reichstag in Berlin at the end of the war in Europe.

Castro sat in the middle of the first row.

He wore his usual green army fatigue uniform, pressed and cleaned. His belt held a holstered pistol. He did not wear his fatigue cap. His haircut was trim, and so was his beard. At his right were his brother Raul, commander of the army and second secretary of the Communist Party of Cuba, and Nikita P. Tolubev, Soviet ambassador to Cuba. At Fidel's left were Osvaldo Dorticos, president of Cuba, and General Stepan Grechko, head of the visiting Russian delegation. The others on the stage were officials of the Cuban government and Communist Party and members of the Russian delegation.

Ambassador Tolubev spoke first, delivering a bombastic speech in Russian, which was read in Spanish at intervals by his interpreter.

Castro seemed bored. He toyed with his beard. He yawned. He joked with Raul. But, when the speech was over, he congratulated the ambassador expansively and gave him a hearty hug. Fidel then stepped to the podium, slipped off his pistol belt, handed it to an aide, and began his own speech.

He is a brilliant orator, who, unlike most Cubans, enunicates his Spanish clearly and slowly. He uses tricks of repetition in pauses and dramatic head-shaking and shifts of gaze that hold the listener despite the great lengths of his rhetoric. His face seems full of emotion. His arms reach out, and his fingers point.

His hour-long speech this time was an uncomfortable one for an American to hear while seated in an auditorium with thousands of Cubans applauding every thrust at the United States. Castro drew a parallel between Nazi and American imperialism. He said that, in an irony of history, Saigon had fallen exactly 30 years after the fall of Berlin.

"History," he said, "wanted that, 30 years after the victory over Hitler's fascism, 30 years exactly, we would see the great Vietnamese victory against Yankee imperialism."

Castro said that the help of the Soviet Union had made it possible for all the peoples of the world to fight for their independence against imperialism.

"Who knows this better than we?" he said. "We, 90 miles from the United States. We, economically blockaded for almost 17 years . . . Who knows better than we, who received arms from the Soviet Union to defend ourselves against aggressions, who received arms to resist the attack of Giron (the Bay of Pigs), who received arms to construct a powerful arm to defend the victories of socialism in our country?"

At one point in the speech, Castro mispronounced a name of the Russian city of Kursk, the site of one of the major battles of the war. He turned quickly to the Russian ambassador, raised his eyebrows, and pushed out his lips, as if he were a little boy apologizing to his teacher for making a mistake in a performance.

But it would be wrong to think of Castro's rhetoric as only performance. He is obviously grateful to the Russians for their help. Without it, he might not have been able to withstand the trade embargoes of the United States and the Organization of American States for so many years and the harassment by the Central Intelligence Agency. To show his gratitude and indebtedness, Castro obviously made the kind of speech that the Russians wanted to hear.

Yet, it is perhaps an irony of history, that, exactly 24 hours before, he had made a far different statement in English for American television. His English was not good, but his meaning was clear.

"We wish," he said, "for the people of the United States, wish of understanding, wish of friendship. I understand it is not easy because we belong to two different worlds. But we are neighbors in one way or another, we ought to live in peace, United States and Cuba."

In his news conference for the American journalists and television crews covering the McGovern visit, Castro tried to reconcile his wish for friendship and his tirades against the United States. He said that his attacks had never been aimed at the American people, only at their government.

Nevertheless, the side he presented to McGovern and the American press was far different than that presented at the Russian rally. And it was a sign that the Cuban people do not see. His words to the American press were not covered by the Cuban newspapers and television.

In their meetings with Castro, American newsmen found a man of good humor, intelligence, and confidence with a sensitive understanding of the politics and customs of the United States. His understanding was so good, in fact, that at times, it was mocking.

Asked about American news stories that the CIA had tried to assassinate him, Castro replied. "For many years, our security forces have uncovered many plots to kill our leaders. In a large number of cases the assassins were maintained by the CIA."

Then, in what was probably an allusion to the American press' self-congratulation over its role in Watergate, Castro went on, "but this is not news for us. Perhaps it is news in the United States. I know you have very good journalists in the United States, but they were not so good in this case."

It was no accident that Castro, whose staff monitors Miami television and major American newspapers, singled out Barbara Walters of NBC's Today show for attention. Castro had a message of goodwill and good feelings to send to the United States, and he knew how to do it.

In fact, the press could not have asked for a better performance. Without acting the buffoon, Castro toasted them with rum at a distillery, stopped at a village ice cream stand to hand out cones to McGovern and the newsmen, and extolled the virtues of the new breed of Cuban cattle while the animals mooed and snapped their tails for American television.

All in all, he charmed the almost 30 reporters and television crewmen who came with McGovern. And only five remained behind to hear Castro lash out at the United States at the Russian rally.

In what was only a brief visit, American newsmen, even those who stayed behind, had difficulty seeing and assessing two other sides of Castro and Castroism—his popularity and his power.

For a visitor who has seen much of the Third World, the most telling sign of Castro's popularity is the absence of any overt glorification of himself. Unlike the late Kwame Nkrumah's Ghana or Jomo Kenyatta's Kenya now, Fidel Castro's Cuba does not overflow with monuments to him, with photographs of him, with coins bearing his likeness.

Castro's rapport with Cuban farmers and their families was shown at the unscheduled stop Nuevo Jibacoa during his tour of the countryside with McGovern and the U.S. press. Cubans crowded near him, tugged at him, joked and chatted with him.

Yet a visitor must keep two things in mind. First, the Cuban economy is in a depressed state. Food and other goods are rationed. People have little and must wait in line for much time to get the little that they have. It would be unnatural if Cubans did not blame their leader, at least a little, for this.

Second, Castro's Cuba does not allow much open dissent. At his news conference, Castro said it was no crime to shout "Down with Fidel" in the streets. "I have heard it myself occasionally," he said. But it is doubtful that many Cubans feel they have that right. Cubans do not complain to outsiders or even to each other in public. But they may complain to themselves alone. A visitor simply cannot tell.

A visitor can tell even less about his power. American scholars, who monitor events in Cuba, believe that there has been a great change in Cuba since 1970. In that year, Fidel went around the countryside exhorting workers to produce 10 million tons of sugar. He failed. The harvest fell short by 1.5 million tons.

As soon as McGovern and the American newsmen arrived in Cuba, they were rushed to the offices of the National Institute of Agrarian Reform for several hours of lecture on the plans for the future of Cuban agriculture. It was clear that these technicians were bent on solving the problems of Cuban agriculture not with the rhetoric and slogans of Fidel but with careful analysis and programming.

All a visitor can conclude is that Castro is a leader of wit and intelligence with a good deal of popularity and with enough charm to please both Americans and Russians.

THE FEDERAL RATHOLE: ABSURD AND EXTRAVAGANT SPENDING

Mr. FANNIN. Mr. President, these days I have been hearing a lot of criticism from my constituents about big dumb Government. What Arizonans seem to complain about most of all is wasteful Federal spending. They do not understand why Washington needs to spend about $1 billion a day or why the country is so deeply in the red, with a planned budget deficit approaching $70 billion in fiscal 1976. No wonder taxpayers are outraged. Why, they ask, can Congress not cut some of the fat from this huge budget?

A good question. The problem seems to be that too many elected politicians do not have the courage to vote to cut back or even abolish their own favorite programs. In addition, some Members of Congress do not know where the trimming could be done.

Mr. Donald Lambro, Washington correspondent for UPI, has done an excellent job of exposing many areas where Government spending has been foolish or extravagant. Both in his book, "The Federal Rathole," published by Arlington House and in his articles, Mr. Lambro has listed hundreds of wasteful, unnecessary, even absurd Government programs and agencies that have proliferated over the years and should be eliminated or substantially improved.

I call to the attention of my colleagues an article by Don Lambro which appeared in the Arizona Republic of August 31. I ask unanimous consent that the full text be printed in the RECORD.

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

FEDERAL SPENDING IS EXTRAVAGANT AND OFTEN DOWNRIGHT ABSURD

WASHINGTON.—Wasteful federal spending, like sinful living, has been condemned by politicians since the days of George Washington.

Yet it can be found proliferating at an astounding rate in every major agency of government.

The cost of taxpayers runs into billions of dollars a year.

Complaints of needless government extrav-

agance, especially during a recession, no longer can be dismised as the sole political preserve of conservatives. Members of Congress who represent every shade of party and ideological persuasion are protesting wasteful federal spending.

Among the classic examples frequently cited by critics are:

$342,000 for Michigan State University researchers to ask college students where, when and with whom they have had premarital sex.

$100,000 for mailing sex information and condom stamps in unmarked envelopes to lists of teenage boys considered sexually active.

$13.9 million annually to maintain about 300 military golf courses around the world, and millions more to provide free face-lifts, breast enlargements and other cosmetic operations for wives of American military personel.

$13 million a year for chauffeur-driven limousines used by 800 bureaucrats.

The Government has given the Bedouins $17,000 for a dry-cleaning plant. It has spent $71,000 to compile a history of comic books $5,000 to analyze violin varnish, $19,300 to find out why children fall off tricycles, and $113,417 to discover that most mothers prefer no-iron children's clothing.

Erica Jong got a $5,000 federal grant to write her controversial novel "Fear of Flying."

Some persons reason that government has grown so big and costly in recent years that some waste is inevitable. But in drawing up its annual budget requests, the executive branch has made few attempts to weed out clearly unnecessary or ineffective programs.

Congress has done even less.

Earlier this year, legislators were confronted with an unusual bureaucrat, Jubal Hale, who publicly admitted that his job should be abolished.

Hale, executive director of the Non-Metallic Mine Safety Board, said his agency—costing taxpayers $60,000 a year—had reviewed nothing in four years.

He said he spent his time listening to Beethoven on his office stereo.

Within weeks, Congress quietly approved legislation to abolish the Non-Metallic Mine Safety Board.

Finding agencies like Hale's is not difficult. Getting rid of them is, as two young and aggressive aides to freshman Sen. Patrick Leahy, D-Vt., discovered.

On Leahy's orders, Jack Ewing and Bill Wachtel worked full time uncovering agencies and programs that should have been eliminated long ago.

They found, for example, that the Federal Fire Council had done nothing for more than seven years, yet automatically received $70,000 yearly.

The Council has bounced from agency to agency since its creation in 1936 to coordinate government fire prevention regulations. From 1968 to the beginning of this year, Ewing and Wachtel discovered, the council met only once, or perhaps twice.

Still, its full-time executive director and secretary managed to spend at least $67,000 a year.

"They mailed out some publications containing pictures of fires, but other than that they didn't do anything," Ewing said.

Amazingly, the two newcomers met with resistance when they reported this discovery to a Senate Appropriations subcommittee. The subcommittee had already blandly approved a bill containing funds to keep the do-nothing fire council alive for another year.

Members were unswayed by the Ewing-Wachtel argument that the council should be killed.

Leahy will try to abolish the agency with an amendment to the appropriations bill when it reaches the Senate floor.

Ewing and Wachtel repeatedly found instances of overlapping and duplication, including not one but five water research agencies scattered throughout the government.

They are also conducting an exhaustive investigation of the government's more than 1,200 advisory committees, which include a plant variety protection board, the board of tea tasters, and the dance advisory panel.

Leahy is one of the few members of Congress to try to uncover and eliminate useless programs. Another is Sen. William Proxmire, D-Wis., who has built his political career on the issue.

Neither has gotten very far.

One good reason is that too few other legislators, especially those doling out tax funds, have the time, energy or curiosity to challenge the bureaucrats' arguments that their programs are important and necessary. Thus:

Although there has been no draft since 1973, the Selective Service continues to spend $45 million a year, with 2,600 persons on its payroll in Washington and at 3,000 local draft boards.

The National Science Foundation spends millions to find out, among other things, whether chimpanzees can be taught to talk and what is passionate love. One NSF survey concluded that 48 per cent of all Americans believe in the devil.

The Overseas Private Investment Corp. which insures American corporations abroad, gave a $415,000 loan to a $150-per-day pleasure resort for the wealthy in Haiti.

The National Institute of Education has spent millions on studies like "How Children Form Peer Groups" and "The Learning Differences in Infants and Toddlers."

The Agriculture Department conducts surveys for various farm corporations on "Consumers' Preferences for Fresh Tomatoes" and "Men's Attitudes Toward Cotton."

The Smithsonian Institution's cultural research program spends millions in U.S.-held foreign currencies to study such esoteric topics as the Indian whistling duck, wild boars in Pakistan and Yugoslav tobacco.

The women's bureau of the Labor Department costs about $2 million a year to run. A spokesman said it is mostly a referral agency, passing on information developed by others in the department. Also, it lobbies heavily for the equal rights amendment.

Among the arguments in defense, the Selective Service says it must maintain machinery for the draft should volunteer forces prove inadequate in the event of a major military emergency.

S. Dillon Ripley, secretary of the Smithsonian said research on skulls in Egypt, the semen of the Ceylon elephant and other projects are "essential to (scientific) progress, and it ill serves mankind to ridicule serious research without full understanding of its objectives."

National Science Foundation researchers suggest that a better understanding of why people fall in love might be useful in reducing the divorce rate.

A Pentagon spokesman said free breast enlargements for wives of military personnel keeps Navy surgeons' skills in plastic surgery skills from "getting rusty."

Nearly everyone in Washington agrees that federal spending has been uncontrolled for decades, so Congress recently established a budget control committee to bring spending more in line with revenues.

It's a tough job. The legislators are wrestling with a target budget of $367 billion for fiscal 1976, while President Ford estimates next year's proposed budget will pass the $400 billion mark.

The projected deficit this year could exceed $80 billion, and the interest on the national debt alone is costing taxpayers more than $30 billion a year.

The preliminary findings of Leahy's two investigators indicate that the executive branch sends many agency budget requests to Congress each year with little or no scrutiny.

And Congress, they have found, usually approves each and every appropriation without question.

Why can't Congress develop a better system? That is the question Ewing and Wachtel say they asked before they came to Washington.

They are still asking.

SCOTTSDALE SPORTSMAN'S CLUB RESOLUTION RELATIVE TO FIREARMS LEGISLATION

Mr. FANNIN. Mr. President, the Scottsdale Sportsman's Club has adopted a resolution based on the difference between firearms control and crime reduction. Theirs is a very sensible position to adopt in light of continuing debate over the possibility of further Federal controls on the use of handguns and other firearms.

Criminal control is the desired end of all gun control legislation. However, firearms licensing, registration, confiscation, or prohibition will not stop the illegal use of weaponry or the criminal from obtaining a gun.

Stringent penalties for the use of guns during the commission of crimes is the most equitable sanction for gun abuse. In addition to strong penalties being in the law books, judges must impose the penalties on the convicted criminals. The failure to sentence convicted criminals to long prison terms or to any terms at all has been a most significant failure of our judicial system.

Mr. President, I ask unanimous consent that the resolution of the Scottsdale Sportsman's Club be printed in the RECORD and would urge my colleagues to give serious considerations to this strong statement by responsible firearms users.

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

SCOTTSDALE SPORTSMAN'S CLUB, RESOLUTION RELATIVE TO FIREARMS LEGISLATION

Whereas, there is no concrete relation between strict firearms controls and crime reduction, and,

Whereas, the financial responsibility of enforcing restrictive firearms laws is placed on an already over-taxed population, and,

Whereas, placing restrictions on basic freedoms are dangerous, and,

Whereas, assassinations, or attempts thereat, of a few individuals is not cause to burden the whole society with restrictive measures not in the best interest of the public, now,

Therefore, be it resolved, that the Scottsdale Sportsman's Club be actively concerned with all further Federal, State, or municipal firearms legislation, and is specifically opposed to firearms registration, restrictions relating to ownership, and/or use of firearms and individual licensing, and,

Be it further resolved, that the Scottsdale Sportsman's Club supports severe penalties and strict enforcement of existing laws concerning criminal use of firearms, and,

Be it further resolved, that the Scottsdale Sportsman's Club will continue to oppose Federal, State and municipal legislation which restricts, prohibits, or places undue burden of firearms ownership and use on law abiding citizens.

THE POLITICAL ASPECTS OF THE PANAMA CANAL, THE PROBLEM OF LOCATION

Mr. GOLDWATER. Mr. President, probably one of the most serious questions that will come before this Congress or the one following will be the matter of the Panama Canal and what the United States is prepared to do about it and with it. One of the most interesting papers that I have read on this subject has been written by James L. Busey entitled, "The Political Aspects of the Panama Canal, the Probem of Location," and was printed by the University of Arizona Press. I ask unanimous consent that it be printed in the RECORD.

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

POLITICAL ASPECTS OF THE PANAMA CANAL: THE PROBLEM OF LOCATION

(By James L. Busey)

FOREWORD

The Panama Canal has been a source of political conflict, extremely bitter in recent years, between the United States and Panama since early in this century. Yet, for the most part, the extensive outpouring of studies on the Panama Canal question has tended to ignore political ramifications dealing with the canal site selection. This longstanding gap in the literature now has been admirably filled by Professor James J. Busey, a distinguished and highly productive scholar on Latin American politics and affairs.

Professor Busey examines the central political questions relating to the canal including Panamanian-U.S. relations, discusses political attitudes in the two countries, and analyzes the potential political consequences of various alternatives to the present canal. The Institute of Government Research is extremely pleased to have been given the opportunity to present this important study on one of the most vital issues in U.S.-Latin American relations.

This study complements other recent IGR monographs on Nicaragua and Chile. These research contributions represent the start of what the IGR hopes will be a meaningful series on Latin America in its Comparative Government Studies.

The work on *Political Aspects of the Panama Canal: The Problem of Location* was started in 1959 by Professor Busey whose research has covered a wide range of Latin American problems. He has published one book, one monograph, four chapters, 16 articles and about 25 reviews—almost all of which have been about Latin America. He has traveled and performed research in Mexico, Central America, Panama, Brazil Uruguay, Argentina, Chile and Peru.

James L. Busey, professor of political science and chairman of the Faculty of Political Science at the University of Colorado in Colorado Springs, has been at that campus since 1965, having transferred from the University of Colorado at Boulder where he had been since 1952. He received his Ph.D. that year from Ohio State University.

The Institute of Government Research also joins with the author in thanks to Marian C. Busey for her maps which are included in this monograph and to others who have assisted in the publication process.

1. PROLOGUE

The Panama Canal is a perennial source of disagreement and misunderstanding between the United States and the Republic of Panama, and indeed between the United States and much of Latin America. In the earliest years of this century, the United States and Colombia undertook to enter into a treaty for the excavation of the canal. Their failure to agree was followed by the severance of Panama from Colombia and, since that time, tensions over the canal have seldom abated for long.

These tensions were especially exacerbated by the Panama riots of 1964. Since that time, the United States and Panama have engaged in what seems to be a fruitless effort to establish new understandings regarding the canal. At this moment, it appears that they are no nearer to cooperation regarding the status and administration of the canal than they were in 1964, and are probably farther from agreement than they have been at any time since 1903. There is no evidence that this state of affairs will improve perceptibly within the foreseeable future.

Though there is a considerable literature on the Panama Canal, and though much of it does touch on the issues that characteristically divide the United States and the Republic of Panama, much that has been written about the canal question tends to stress diplomatic history, juridical matters, or engineering problems.[1] With some exceptionstions that will be apparent in this paper, most of the published material on the Panama Canal skirts a very profound political problems that plague any attempt at settlement of canal issues.

A principal purpose of this paper will be to examine some central political factors thus far neglected or given but brief attention in most treatments of canal questions. Another objective will be to note whether official policy in the United States demonstrates awareness of the outstanding political questions that must be solved if the canal is ever to be laid to rest.

In the pursuit of these objectives, leading historical events in the development of canal policy will be summarized. These are quite well known to some readers, but need to be kept freshly in mind as indicative of tendencies that have been characteristic of U.S. isthmian policies. Then the most fundamental political problems that are attendant upon difficulties of the United States at the canal will be emphasized. Having charted obstacles that must be overcome if the United States is finally to settle the canal question, this paper will examine the various contemporary moves made by this country to study the isthmian transit problem and to formulate final solutions to it. After examining some political pressures within the United States that must be given high regard if answers to the problem of intercontinental transit are to be successful, evaluative comment will be offered on the principal alternative solutions that concerned parties have suggested.

It is not a function of this study to argue either for or against the maintenance of world trade at its present levels, or even for the defense of the United States. We will consider it to be axiomatic that if world commerce is to continue to have access to the Panama Canal or to an equivalent transhemispheric artery, and if the defense interests of the United States are to be served, it is essential that (1) there be continued efficient management of some isthmian artery, and (2) no opponent of the United States secure the canal or strongly influence its administration. In other words, influential economic and political elements seeking to realize these aims of successful world commerce and conceived national interest of the United States would find it advantageous to resolve the "canal question." That they must do so in consonance with certain political realities heretofore rather uniformly neglected will be a persistent theme of this paper.

As the title of this study indicates, the whole stress here will be on the political aspects of the Panama Canal. In no sense is it implied that factors having to do with geography or engineering are unimportant. On the contrary, it is obvious that in the matter of a trans-isthmian artery it would be disastrous to disregard elements relating to physical reality. Nevertheless, it is a main point of this study that it is also disastrous to disregard elements which relate to political reality. This study attempts to redress the imbalance that exists in this area.

Before entering upon the substance of our study, it is appropriate to say something about the current significance of the Panama Canal for international commerce. Despite changing modes of transportation, the Panama Canal continues to play a significant role in the commerce of the United States and the world. In 1920, 9.7 million tons of cargo were shipped through the canal. From 1950 to 1970, the tonnage almost doubled each decade, with 30.4 million tons being carried in 1950, 60.4 in 1960 and 118.9 in 1970. In 1969, 15.8 per cent of the total oceanborne trade of the United States was transited through the canal. Countries of Central America and western South America were particularly dependent on the canal for their ocean commerce, with Chile and Peru sending or receiving over 39 per cent of their worldwide sea trade through the canal, and Ecuador depended on it for 72.4 per cent of her oceanborne trade. The United States is the largest user, and Japan is second. In 1969, 44 million tons originating in the United States transited the canal, and the United States received over 27.5 million tons through the canal. Corresponding figures for Japan were over 7.2 million tons originating in that country, and over 33.5 million tons destined to Japan.[2]

In 1970 the Atlantic-Pacific Interoceanic Canal Study Commission reported that the continued effective operation of an isthmian canal is closely related to the defense interests of the United States. The Commission argued that closure of the Panama Canal in wartime would divide the merchant and naval fleets of the U.S., thus denying to either coast of the country the services of a good part of its shipping and naval potential. The report contends that the canal is essential for transhipment of war materiel from one coast to the other, and that no amount of air transport can begin to meet this need. It argues that without the Panama Canal, other and longer routes would not only have to be covered for these purposes, but that they would have to be guarded by additional combat vessels. The report is of the view that continued operation of the trans-isthmian canal is essential for the mass movement of military personnel. In terms of distance, the Commission contends, the Panama Canal saves about 8,000 miles for east-west transits, and utilizes about half the number of ships that would be required to accomplish the same objectives by any other conceivable route.[3]

2. POLITICAL MYOPIA AT PANAMA

The nineteenth century and the early decades of the twentieth were not especially cel-

[1] The reader is invited to scan the footnoted sources as well as the bibliography of leading titles after the end of this paper. Even there, sources are included which have been utilized in the preparation of this paper, and no attempt has been made to list the hundreds of popular or scholarly articles which have appeared coterminously with the many Panamanian issues since 1903.

[2] United States, Atlantic-Pacific Interoceanic Canal Study Commission, *Interoceanic Canal Studies, 1970* (Washington, D.C.: Report to the President, December 1, 1970), Table 2, "Panama Canal Users, Fiscal Year 1969," pp. 15–16; Table 4, "Growth of Panama Canal Traffic," p. 22.

[3] *Ibid.* Chapter 2, pp. 8–11; and Annex II, "Study of National Defense Aspects," pp. 1–16.

ebrated for the respect and courtesies which great powers extended to small ones. In this respect, the Panamanian episode and events which preceded and followed it were by no means exceptional for the times.

Groundwork for the United States' presence on the isthmus was laid by the U.S.-Colombian Bidlack Treaty of 1846, wherein it was provided that U.S. citizens and their commodities should move freely across Panama, and that the United States would guarantee the neutrality required for uninterrupted transit across the isthmus. As a concession to Colombia for these favors, the United States would see to it that Nueva Granada (Colombia) would remain sovereign over her territory of Panama.[1] As Professor Edwin C. Hoyt points out, the Bidlack Treaty was seen by Colombia as protecting her sovereignty over the isthmus, but by the United States, as assuring her right of transit.[2]

The Clayton-Bulwer Treaty of 1850 related primarily to the proposed Nicaraguan canal, but expressed an intention of the signatories, Britain and the United States, to extend the same principle to any other canal in the vicinity, whether across Mexico or Panama. It promised equal U.S. and British rights to any such canal. In keeping with the spirit of the times and the power relationships that then prevailed, the treaty made only oblique references to whatever Latin American republic might presumably hold sovereignty over the territory to be utilized for a canal.[3]

During the decade following 1878, there was the dramatic attempt and failure of the French-owned Compagnie Universelle du Canal Interocéanique. The French effort cost some $287 million and 22,000 lives. Most of the human casualties were induced by yellow fever, and a large measure of the financial loss could be attributed to inefficiency and corruption. The French company excavated about one quarter of the proposed canal and, of considerable interest to this study, introduced the engineer and financier Philippe Bunau Varilla onto the Panamanian and world stage. Banau Varilla became the principal proponent of the interests of the Compagnie Nouvelle du Canal de Panama, a holding firm designed to dispose of the French assets as advantageously and expeditiously as possible.[4]

In 1901, the Hay-Pauncefote Treaty between the United States and Britain expressed a new pattern of reality. In effect, the agreement dissolved the arrangements of the Clayton-Bulwer Treaty, turned over the rights and obligations for construction of any canal to the United States, and retained only the concept of canal neutrality as a vestige of remaining British rights. As usual, very little was said about any Latin American possessor of the territory in question. The way was further cleared when the Spooner Act, passed by the U.S. Congress June 28, 1902, authorized the President to try to obtain territory, or at least "control" over a strip of land, for the purpose of construction of a canal at Panama. From the standpoint of Philippe Bunau Varilla and other parties interested in the French enterprise, it was significant that the Spooner Act authorized payment of $40 million for the assets and rights of the moribund French company.[5]

It was in the nature of the times that these introductory events were quite neglectful of Latin American sensibilities and interests. Indeed, there seemed to be little if any awareness on the part of the participants in the unfolding drama that there were any parties to the canal question other than the United States and the European powers.

After the Hay-Pauncefote Treaty and the Spooner Act, events moved headlong to the Panamanian episode of 1903. On January 22, 1903, the United States and Colombia signed the Hay-Herrán Treaty, which would (1) authorize the French company to sell all its rights, property and privileges to the United States, (2) grant to the United States rights for the next hundred years to operate a canal and a zone five kilometers on each side of the waterway, (3) preserve the sovereignty of Colombia over the zone and canal, and (4) oblige the United States to pay to Colombia $10 million in gold, plus $250,000 each year starting nine years after conclusion of the treaty. On May 17, 1903, the Hay-Herrán Treaty was ratified by the Senate of the United States; on August 12, 1903, it was rejected by the Congress of Colombia.[6] Later, in 1913, Theodore Roosevelt claimed that the purpose of José Manuel Marroquín, Colombian dictator of the time, was to wait until the French concession expired in 1904 so that the Colombian treasury (and presumably, interested political figures) could collect payment for the French properties, rights and assets; and further, that upon consummation of the Panamanian revolution of November 6, 1903, Colombia notified the United States of her willingness to arrange for ratification of the treaty.[7]

Whatever may have been the machinations in Bogotá, the action of Colombia was an unexpected blow to expectations that the United States could proceed with the canal without vexation from Latin America. It also shattered hopes of French and Panamanian interests who hoped to sell French properties and reap rewards from inflated land values and commercial activity arising from construction of the canal. These individuals included especially Philippe Bunau Varilla, the French engineer and promoter of holding-company interests, and Dr. Manuel Amador Guerrero, a prominent Colombian-Panamanian physician who was also an important political figure and property holder.

Shortly after the Colombian rejection of the Hay-Herrán Treaty, Philippe Bunau Varilla hurried to Washington, where he conferred with John Hay, U.S. Secretary of State, and other top officials of the administration of President Roosevelt. On the evening of November 2, 1903, two U.S. cruisers arrived at Colón on the Caribbean side of the isthmus. Almost simultaneously, Colombian troops landed at the same harbor and disembarked with the intention of putting down the anticipated revolution. On the morning of the next day, November 3, the revolt erupted in Panama City on the Pacific side. Meanwhile, the U.S. naval commander at Colón received his instructions from Washington—to prevent any interruption of transit and to prevent landing "of any force with hostile intent, either government or insurgent," if such a landing might bring on a conflict. Later, the United States claimed that in the interests of free transit, she was obliged under the 1846 Bidlack Treaty with Colombia to prevent landing of Colombian troops sent to preserve the same Colombian sovereignty that the Bidlack Treaty also guaranteed!

The actual blocking of transit of Colombian troops across the isthmus was not the work of U.S. cruisers, but rather of officials of the Panama Railroad Company, led by its supervisor Colonel James S. Shaler, U.S. Army. They ushered the Colombian officers across the isthmus in passenger coaches, but could not get trains organized for the transport of the troops. Upon arrival of the Colombian officers in Panama City on the Pacific side, they were promptly arrested by the revolutionaries. On the Caribbean side, personnel of the Panama Railroad Company and other Americans passed the hat, collected a bribe of $8,000, and paid it to the officer in charge of the Colombian troops, all of whom then reembarked for their homeland. It was in the midst of these inauspicious circumstances that the Republic of Panama was created, on November 6, 1903; soon thereafter the *junta* of the *gobierno provisional* named the Frenchman, Philippe Bunau Varilla, already in the United States, to be first minister to the U.S.A.[8]

All the rest was downhill. At 6:40 p.m. on November 18, 1903, at the home of Secretary of State John Hay and a few hours prior to arrival of Panamanian commissioners (Manuel Amador and Federico Boyd) who were supposed to negotiate the canal treaty, Hay and the Frenchman Bunau Varilla signed a treaty which repeated most of the provisions of the unsuccessful Hay-Herrán document but with certain modifications: the grant would be in perpetuity, not for only a century; the zone would be ten miles in width instead of ten kilometers; and, in place of a positive guarantee of Panamanian sovereignty, the fifteen-day-old Republic of Panama granted to the United States, according to Article III of the Hay-Bunau Varilla Treaty,

". . . all the rights, power and authority within the zone mentioned . . . which the United States would possess if it were the sovereign of the territory . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."[9]

As may be well imagined, this turn of events was received by the Republic of Colombia with something less than enthusiasm. She was quick to protest, through her special minister to Washington, General Rafael Reyes (later President, 1904–1909). Secretary of State John Hay replied blandly that the United States had merely observed provisions of the Colombia-United States Treaty of 1846—but noted, in addition, that Colombia had obstructed all attempts at working out a suitable treaty, thus implying that the United States needed some further justification for its rôle in the Panama affair.[10]

After almost twenty years of resistance to the admission of responsibility for the Panamanian affairs, the United States finally agreed, by treaty ratified in 1922, to pay Colombia the sum of $25 million, to grant to Colombia the right to use the canal without charge for transit of all ships, materiel and troops of war, and to accord to citizens of Colombia the same rights and privileges in the Zone that would be enjoyed by those of the United States.[11]

One can raise questions about Colombia's motivations for rejection of the Hay-Herran Treaty. It must be admitted that the Colombian rejection, if accepted, would have led to delay in construction of the canal. However, Colombia was under no legal obligation to accept a treaty relating to a canal to be cut through her territory. It is conceivable that the United States could have moved with greater finesse and still obtained a canal through Colombian territory. The actions of the United States government in the Panamanian episode constituted an assault on the pride of Colombia and on that of Latin America in general. The events of 1903 created a field day for later nationalist expression. No payment to Colombia could calm the rancor that was felt throughout Latin America. To this day, the episode ranks as a prime source of Latin American hostility toward the United States. Furthermore, the mode whereby Panama secured her independence denied to that republic the opportunity to obtain her separation with honor, and provided a source of embarrassment to the new isthmian republic.[12]

In a recent article, Professor Martin C. Needler stresses the point that, in U.S. relations with Latin America, it is necessary to give much more consideration than is normally accorded to the Latin American sense of *dignidad*.[13] The episode of 1903 created a load of historical baggage which the United States must bear in her future plans regarding isthmian transit. In balancing the tangible engineering accomplishment against the intangible political distress which the

Footnotes at end of article.

events created for the United States, one is constrained to comment that there are times when ill-defined elements of human sensitivity must be calculated into the historical content of international relations.[14]

FOOTNOTES

[1] Samuel Flagg Bemis, *The Latin American Policy of the United States* (New York: Harcourt, Brace and World, 1943), pp. 37–38, 105.

[2] Edwin C. Hoyt, *National Policy and International Law: Case Studies From American Canal Policy* (Monograph Series in World Affairs; Denver: University of Denver, 1967), p. 27.

[3] Diogenes A. Arosemena G., ed., *Documentary Diplomatic History of the Panama Canal* (Panama, 1961), pp. 25–34; Samuel Guy Inman, *Problems of Pan Americanism* (New York: Doran, 1925), p. 278; Dexter Perkins, *The United States and Latin America* (Baton Rouge: Louisiana State University Press, 1961), pp. 22–24; J. Fred Rippy, *Latin America in World Politics* (New York: Knopf, 1928), pp. 113–114. For extended discussion of reactions in the United States to the Clayton-Bulwer Treaty, see Hoyt, *National Policy*, pp. 5–25.

[4] Interestingly enough in terms of later international politics, Bunau Varilla turned to Russia for help in rescuscitating the bankrupt French enterprise. It was not until he was rebuffed in this effort that he sought help in the United States. Charles D. Ameringer, "Bunau Varilla, Russia and the Panama Canal," *Journal of Inter-American Studies and World Affairs*, XII (July, 1970), pp. 328–338.

[5] Arosemena, *Documentary Diplomatic History*, pp. 133–136, 145–150; Hoyt, *National Policy*, pp. 27–28; Norman J. Padelford, *The Panama Canal in Peace and War* (New York: Macmillan, 1942), pp. 20–21, 36.

[6] Arosemena, *Documentary Diplomatic History*, pp. 153–168; Inman, *Problems in Pan Americanism*, p. 279; Padelford, *The Panama Canal*, p. 22.

[7] "Statement on the Panama Canal by Theodore Roosevelt, Formerly President of the United States," in James W. Gantenbein, ed., *The Evolution of Our Latin-American Policy* (New York: Columbia University Press, 1950), pp. 534–540.

[8] Hoyt, *National Policy*, pp. 31 ff.; Inman, *Problems in Pan Americanism*, p. 280; Chester Lloyd Jones, *Caribbean Interests of the United States* (New York: Appleton, 1916), pp. 193, 197, 202–203; Immanuel J. Klette, *From Atlantic to Pacific* (New York: Harper & Row for the Council on Foreign Relations, 1967), pp. 9–16; Roosevelt Centennial Supplement, *Panama Canal Review*, IX (November 7, 1958). For a splendid, scholarly treatment of this early period, see G. A. Mellender, *The United States in Panamanian Politics* (Danville, Illinois: The Interstate Printers and Publishers, 1971), Chapter III, "Independence!" pp. 25–35.

[9] Arosemena, *Documentary Diplomatic History*, "Hay-Bunau Varilla Convention of November 18, 1903," Article III, p. 76. For the host of detailed legal problems that have sprung from this phraseology, see R. R. Baxter, *The Law of International Waterways* (Cambridge: Harvard University Press, 1964), pp. 71–88. On the precipitous signing of the Hay-Bunau Varilla Treaty, see Mellander, *The United States in Panamanian Politics*, pp. 39–44.

[10] "General Reyes, Colombian Minister to the United States, to John Hay, Secretary of State of the United States, December 23, 1903," in Gantenbein, *The Evolution*, pp. 504–517; and "John Hay, Secretary of State of the United States, to General Reyes, Colombian Special Minister to the United States, January 5, 1904," *Ibid.*, pp. 517–533.

[11] Arosemena, *Documentary Diplomatic History*, pp. 37–38, 191–210, 230, 331–340; Hoyt, *National Policy*, pp. 31–35; Inman, *Problems in Pan Americanism*, pp. 281–282.

[12] Eminent Panamanians who must remain unidentified here have expressed this view to me.

[13] Martin C. Needler, "New Directions for Our Latin American Policy," *Yale Review*, LX (Spring, 1971), p. 339.

[14] The most detailed recent source on the politics which lay behind the whole early history of the United States at Panama, especially from the standpoint of internal Panamanian politics, is Mellander, *The United States in Panamanian Politics*. Another excellent new book, which covers the wider span of isthmian-canal history from the early nineteenth century to the present, is Lawrence O. Ealy, *Yanqui Politics and the Isthmian Canal* (University Park, Pa.: The Pennsylvania State University Press, 1971); and in connection with the early years in Panama, see Chapter 6, "Roosevelt and the Revolution in Panama," pp. 58–70. An earlier book by the same author was *Republic of Panama in World Affairs, 1903–1950* (Philadelphia: University of Pennsylvania Press, 1951). For a popular history of the Panamanian isthmus from the earliest discovery to the days of construction, Arthur Bullard (pseud. Albert Edwards), *Panama, The Canal, The Country and The People* (New York: Macmillan, 1912), is recommended. For an interesting compendium of views by Latin Americans on issues relating to international canals, especially the Panama Canal, one may consult Ricardo J. Alfaro *et al.*, *Los canales internacionales* (Panama: Universidad de Panama, 1957). An encapsulated, perceptive historical sketch of U.S.-Panamanian relations is Edward H. Moseley, "The United States, Panama and the Canal," *Delphian Quarterly*, LV (Autumn, 1972), pp. 2–9, 18.

3. CENTRAL AND PERIPHERAL PROBLEMS

Location

If seen only in the light of engineering considerations, it is probable that the isthmian canal could be located nowhere but in Panama. Physical and technological factors suggest that the isthmus of Panama is the most reasonable location for any new canal to be excavated in the future.[1] From the political standpoint, the foreign-controlled Panama Canal and Zone may be in one of the worst locations devised by the mind of man. As Colonel Immanuel J. Klette of the U.S. Air Force puts it, "What has been oftentimes lost from sight are the political problems which flow from its mere existence as a United States installation in a small Latin American country."[2]

The Panama Canal Zone not only cuts through the middle of the Republic of Panama, but the capital city of Panama abuts on the Zone, and some of its most important commercial districts either adjoin the Zone or lie within a few blocks of it. An important thoroughfare, Kennedy Avenue (formerly Fourth of July Avenue), forms one of the borders between the Zone and Panama City. All ocean shipping on the Pacific side utilizes wharves and warehouses in Balboa, within the Zone, and goods must be transported out of the U.S. Canal Zone in order to get to commercial outlets in the republic. On the Caribbean side, the implications for Panamanian nationalism are even more marked, for the Panamanian city of Colón is completely surrounded by the Zone. One may only reach Colón by land by going through the U.S.-controlled Canal Zone. At Colón, as at Panama City, the principal commercial wharves are all located within the Zone—in this case, in Cristóbal. When a Panamanian undertakes to travel through his country from one part to the other, he must cross the U.S.-controlled Panama Canal Zone. If he is traveling by land, he must utilize the Balboa Bridge, built by the United States upon demand from Panama, or else take a ferry across the canal. In the words of the *Times of the Americas*.

Footnotes at end of article.

Just suppose the British had decided, in the early 1800s, to build the Erie Canal. As a part of their planning, they laid out a Canal Zone of their own to protect it and back it up. Now it's 1971. How would we feel about having a British colony nudging Cleveland and Buffalo? That's the analogy that Alan Cranston of California used to tell the House Inter-American Subcommittee how he felt about the Panama situation.[3]

Or, one might consider how the citizens of the United States would like it if the Mexicans or Canadians were to hold a wide transit zone up and down the Mississippi River Valley.

As was pointed out by John and Mavis Biesanz, nationalism plays a strong role in Panamanian politics. Panamanian nationalism is composed of strong doses of anti-Yankeeism combined with feelings of defensiveness and shame. The Biesanz team found that Panamanian nationalism is inconsistent, emotional and irrational, but very real.[4] Individuals in all walks of Panamanian life, including especially young people, intellectual leaders, and the elite in general, are powerfully moved by considerations of nationalism. Parties, leaders and pundits of public opinion who are not strongly nationalist cannot hope to attract large followings. Pro-Soviet, Maoist and *fidelista* elements take advantage of the popularity of nationalism in Panama, and exert strong influence in the National University, the National Institute (a secondary preparatory school which borders on the Canal Zone), and the very influential and politically oriented Federation of Panamanian Students. Important Panamanian intellectual leaders go so far as to claim the Panama Canal is responsible for all the afflictions of the republic.[5]

In the face of strong Panamanian nationalism, it is of little avail to argue that, in addition to rental of $1.93 million per year which Panama collects from the canal,[6] the republic earns well over $165 million annually from trade, wages and purchases arising out of the Canal Zone, and that this figure accounts for about two thirds of Panama's income from foreign exchange, and at least one third from its gross national product;[7] that the United States is almost singly responsible for completion of all railroad, highway and water routes across and along the length of the Panamanian isthmus and for a large share of economic assistance to the republic; or that the very existence of Panama as an independent republic is in large measure due to intercession by the United States in the events of 1903. All this is true enough, but does little to solve the problem of national pride which arises out of the ubiquitous presence of the Canal Zone in the middle of Panama. In fact, the overwhelming role of the United States in the economic and political life of Panama, no matter how valuable from the material point of view, must also be seen in the light of its negative impact on the normal forces of Panamanian nationalism.

Sovereignty and the flags

As noted, a few days after the Panamanian revolution the United States hurriedly entered into the Hay-Bunau Varilla Treaty, which included the ambiguous statement on sovereignty which we have quoted.[8] By granting to the United States "all the rights, power and authority" which the United States "would possess and exercise if it were sovereign of the territory," the treaty seemed to say that the United States would not be sovereign, but could exercise all the rights of sovereignty—thus leaving in limbo the question as to who *was* in fact sovereign over the Canal Zone. Controversies over this issue began almost immediately after the treaty of 1903, and continue to the present day. Directly or indirectly, the question of sovereignty lies behind virtually all the issues, and certainly the most heated ones, that have plagued U.S.-Panamanian rela-

tions since 1903. Because it relates so directly to the central and explosive issue of sovereignty, the question as to whether the U.S. or Panamanian flag, or both, should fly in the Canal Zone has aroused more bitterness in Panama than any other.

On November 3, 1959, two intellectual firebrand nationalists, Aquilino Boyd and Ernesto Castillero, tried to lead a march into the Canal Zone to fly the Panamanian flag. When they were prevented from pursuing their objective, riotous violence erupted. Led by Boyd and Castillero, the marchers rushed to the U.S. Embassy (in Panama City, outside the Zone), tore down the U.S. flag and ripped it to pieces amidst shouts of approval. Zone authorities placed the republic off limits to U.S. personnel, and the Canal Zone was closed to access from the outside. Subsequently, President Eisenhower announced that U.S. and Panamanian flags would fly together at Shaler Triangle, a small park at the edge of the Zone on the border of Panama City.[9] The President's gesture, as we shall see, was to no avail. Later, extreme violence induced by the same question brought U.S.-Panamanian relations to their lowest point since 1903. The issues at Panama go far deeper than the flying of one Panamanian flag on the inside edge of the Canal Zone. In the eyes of Panamanian leaders and agitators, nothing less is at stake than the life and meaning of the whole Panamanian republic.

PERIPHERAL ISSUES

Less fundamental but no less persistent issues between the United States and Panama have included, among many others, (1) the amount of payment that the United States should make for its rights in the Zone, (2) alleged unequal treatment of Panamanian workers in the Zone as compared with non-Panamanian workers (the numbers are now about 12,000 and 14,000, respectively), (3) commissary privileges enjoyed by individuals in the Zone which allegedly deprive Panamanian businessmen of customers, (4) housing in the Zone (occupied by some 7,500 Panamanians, and essentially all the Americans) which competes with that available in the republic, (5) discrimination of various types, (6) roles of the English and Spanish languages in the Zone, (7) responsibilities of the United States and Panama with respect to postal services, customs collections, control of contraband moving into and out of the Zone, (8) sales by the Panama Canal Company to third parties, (9) rights of the United States to acquire new lands for operation or maintenance of the canal, (10) U.S. military bases in the Zone and elsewhere in Panama, (11) transportation privileges claimed by Panama from one part to another of the republic across the Zone, in terms of adequate bridges and highways and even (12) the kinds of postage stamps and authority over postal services in the Zone. This by no means completes the list of sources of controversy, and only indicates some of the leading issues over the years.[10]

In 1936 the United States and Panama entered into the supplemental Hull-Alfaro Treaty, which was designed to reconcile several of these outstanding differences, and which raised the compensation paid to Panama from the original $250,000 to a new figure of $430,000 per year. An even more extensive treaty, whereby the annual compensation was increased to $1,930,000 (the present figure), was ratified between the two countries in 1955. By its terms, the United States and Panama also reached agreement regarding equal rights to employment, restriction of establishment of U.S. military bases in Panama, termination of the unlimited rights of the United States to acquire additional adjacent territories as allegedly needed for improvement of canal facilities, revocation of the exercise by the United States of sanitation controls over Panama City and Colon, a promise by the United States to build a new bridge across the canal (subsequently constructed and named the Balboa Bridge), and a host of other matters at issue.[11] One of the most insistent Panamanian demands related to the bridge, but when it was completed in 1959, opening ceremonies were marred by violent expressions of protest.

Emotions generated by such issues have caused tense feelings and outbreaks of violence in Panama, both within and outside the Zone. In 1947, when it appeared that the Panamanian National Assembly might agree to permit U.S. retention of thirteen small World War II military-technical installations outside the Zone for five more years, and the much more important Rio Hato base (70 miles west of the Panama Canal) for ten more years, violent riots in Panama City led directly to repudiation of the proposed agreements by the National Assembly (December 23) and wild rejoicing in the streets. The United States evacuated the sites very suddenly, completing departure on February 16, 1948. The Panamanian government, faced with the reality of economic loss, offered to reopen discussions; but it was not until the Treaty of 1955 that the United States was permitted to reoccupy the Rio Hato base.[12] From the Panamanian standpoint, considerable material loss was suffered during the interim; but this was more than outweighed by the public emotional satisfaction that was achieved.

At the risk of being repetitious, it must be stressed that these and other controversies between Panama and the United States arise essentially from the central fact that a foreign-controlled gash cuts through the heart of the Republic of Panama. This explains why even peripheral issues assume an importance in Panamanian eyes that is hard for people in the United States to comprehend, and why questions of sovereignty and flags cut directly into the raw nerves of the people of Panama. The boiling tensions that have characterized U.S.-Panamanian relations since 1964 illustrate this point very well, and in their conclusion provide further evidence of U.S. in attention to political considerations *vis a vis* the Panamanian isthmus.

FOOTNOTES

[1] For comparison with all other possible routes, see United States, Atlantic-Pacific Interoceanic Canal Study Commission, *Interoceanic Canal Studies, 1970* (Washington, D.C.: Report to the President, December 1, 1970), Chapter VII, "Analysis of Alternatives," pp. 63–88; Annex V, "Study of Engineering Feasibility;" and especially Table 3–2, "Initial Screening of Previously Identified Interoceanic Sea-Level Canal Routes," Annex V, pp. 23–25.

[2] Immanuel J. Klette, *From Atlantic to Pacific* (New York: Harper & Row for the Council on Foreign Relations, 1967), p. 95.

[3] "Panama Is No Place for Zone Defense," *Times of the Americas*, October 13, 1971, p. 4.

[4] John and Mavis Biesanz, *The People of Panama* (New York: Columbia University Press, 1955), pp. 155–157.

[5] These observations are drawn from personal investigation and observation in Panama, and from a multitude of sources too numerous to cite here. See, James L. Busey, "Conflict in Panama," *The New Leader*, XXXVI (February 15, 1960), pp. 16–19; Daniel Goldrich, *Sons of the Establishment: Elite Youth in Panama and Costa Rica* (Chicago: Rand MacNally, 1966), pp. 29 *et passim*. For writers who blame the canal for all the problems of Panama, see Ernesto Castillero Pimentel, *Panamá y los Estados Unidos* (Panamá, 1953); and David Turner Morales, *Estructura económica de Panamá* (México, D.F.: Editorial América Nueva, 1958), wherein the author claims that the Panama Canal has serious adverse effects on the economic life of the republic. According to Turner, who received his licentiate degree at the Autonomous University of Mexico on the basis of his thesis, ". . . one may affirm categorically that Panama has not had any economic development by reason of the Canal." *Ibid.*, p. 233. A more balanced presentation of Panamanian points of view may be found in Eloy Benedetti, ed., *Tres ensayos sobre el canal de Panama* (Panama: Ministerio de Educación, 1965). Useful material on the background of Panamanian nationalism may be found in Ricaurte Soler, *Pensamiento panameño y concepción de la nacionalidad durante el siglo XIX* (2nd ed.; Panama: Librería Cultural Panameña, S.A., 1971).

[6] At this moment (1972–73), there is a movement afoot in Panama to refuse any payment by the United States for use of the Canal Zone. Based on nationalist arguments that acceptance of payment amounts to Panamanian recognition of U.S. rights to the Zone, the movement enjoys considerable support.

[7] "Future of Canal Remains Hot Issue in Panama," *Times of the Americas*, June 14, 1972, p. 7.

[8] *Supra*, Part 2. p. 13.

[9] Lester D. Langley, "U.S. Panamanian Relations Since 1941," *Journal of Inter-American Studies and World Affairs*, XII (July, 1970), pp. 350–353.

[10] For detailed discussion of these points, see, among many other sources, Richard R. Baxter and Doris Carroll, authors of the working paper, and Lyman M. Tondel, ed., *The Panama Canal* (Background Papers and Proceedings, Sixth Hammarskjold Forum; Dobbs Ferry, N.Y.: Oceana, 1965), pp. 11–12, 26–32, 48–49; Busey, "Conflict in Panama," pp. 16–19; Edwin C. Hoyt, *National Policy and International Laws Case Studies From American Canal Policy* (Monograph Series in World Affairs, Denver: University of Denver, 1967), pp. 40–41; Sheldon B. Liss, *The Canal* (Notre Dame: University of Notre Dame Press, 1967), pp. 49, 172–177; J. Lloyd Mecham, *A Survey of United States-Latin American Relations* (Boston: Houghton Mifflin, 1965), pp. 312–324; *Panama: Canal Issues and Treaty Talks* (Washington, D.C.: Georgetown University, The Center for Strategic Studies, 1967); U.S. 86th Cong., 2nd Sess., House of Representatives, Committee on Foreign Affairs, Subcommittee on Inter-American Affairs, *Report on United States Relations With Panama* (Union Calendar No. 1005, House Report No. 2218; Washington, D.C.: Government Printing Office, 1960), pp. 16–31, 33–36, 37–40.

[11] Hoyt, *National Policy*, p. 42; Langley, "U.S.-Panamanian Relations," pp. 340, 345–346; Dexter Perkins, *The United States and the Caribbean* (Rev. ed.; Cambridge: Harvard University Press, 1966), pp. 151–154; Graham H. Stuart, "Should the Panama Canal Be Internationalized?" in A. Curtis Wilgus, ed., *The Caribbean: Contemporary International Relations* (Gainesville: University of Florida Press, 1957), p. 48; and for texts of these and other treaties and agreements entered into between the United States and Panama, see Diogenes A. Arosemena G., ed., *Documentary Diplomatic History of the Panama Canal* (Panama, n.p., 1961), as well as other publications cited in this discussion.

[12] J. Lloyd Mecham, *The United States and Inter-American Security, 1889–1960* (Austin: University of Texas Press, 1961), pp. 295–297.

4. POLITICAL MYOPIA REVISITED

Riots of 1964

During the decade of the sixties, Panamanian-U.S. relations moved closer than previously to the heart of the canal question—that is, the fundamental issue of sovereignty over a strip running through the middle of the republic. Under agreements reached between Presidents John F. Kennedy and Roberto Francisco Chiari, it was understood that the Panamanian flag might fly in the Zone at all non-military

sites where the U.S. flag was raised. In conformity with these understandings, Governor William E. Potter of the Zone restricted such locations to seventeen. These did not include the Balboa High School. On January 7, 1964, students from the Canal Zone Junior College made an unauthorized attempt to raise the U.S. flag at the Balboa High School. This was countered by some 200 students from the Panamanian National Institute, who marched to Balboa High School with the intention of hoisting the Panamanian flag alongside the banner of the United States. When prevented by Zone authorities from carrying out this intent, the Panamanian students retreated angrily from the Zone.

Joined by nationalist and Communist agitators, mobs swelled along the border of the Zone. The violence on both sides led to the deaths of some twenty Panamanians and four United States citizens, and scores of injuries. From January 9 to April 3, Panama refused to carry on diplomatic relations with the United States, charging the United States with committing "acts of aggression," and attempted to induce the Organization of American States to invoke the Rio Pact against the United States.[1] In February, the Council of the OAS concluded that the United States had utilized disproportionate force to quell the disturbances, but did not agree that the United States had committed aggression against Panama.[2]

In negotiations following the riots, it became increasingly clear that Panama was moving very close to insisting on actual control over the Zone and the canal. Among other things, the Panamanian representative in the talks (Jorge Illueca) demanded Panamanian participation in a new canal authority; inclusion of the present Zone as an integral part of the republic, with Panamanian flag and stamps; and adoption of Spanish as the official language throughout the canal area.[3] The issues, in other words, were now focusing on the point which lies at the core of most of the controversy: that is, the role of Panama over what she claims to be her territory, and the continued presence of the United States therein. Professor Lester D. Langley points out that almost all issues regarding the Panama Canal can be traced back to the Hay-Bunau Varilla Treaty of 1903—that is, to the question of sovereignty.[4]

The Johnson Plan

As direct outgrowths of the riots of 1964, two events occurred in the United States which were designed to have important effects on future canal policy.

First, on September 22, 1964, Congress passed Public Law 88–609, establishing the Atlantic-Pacific Interoceanic Canal Study Commission which was to make a full study with a view to recommending a suitable site for a sea-level canal connecting the Atlantic and Pacific Oceans. In April, 1965, the President appointed five distinguished Americans to be its members.[5]

Second, President Lyndon Johnson announced on December 18, 1964, that at the same time the canal studies were going forward under the auspices of the Atlantic-Pacific Commission, the United States would negotiate new understandings with Panama relative to the present canal. A new treaty would abrogate the Hay-Bunau Varilla Treaty of 1903, recognize Panamanian sovereignty over the Zone, and establish a pattern of equal partnership between the two countries relative to the canal.[6] To all but political novitiates, it would appear that investigations of the Commission regarding alternative routes (including some outside of Panama) should provide excellent inducement to the Panamanians to conclude a new treaty regarding the present canal.

Footnotes at end of article.

The Commission report

In accordance with what we have called the "Johnson Plan" and authorization by Congress, the Atlantic-Pacific Interoceanic Canal Study Commission was organized and began its work in April of 1965. On December 1, 1970, after five and one half years of intensive investigation, and after expending over $22 million, the Commission produced its report to the President, entitled *Interoceanic Canal Studies*. This compendium of over 1,000 pages includes some 135 pages of text and 875 pages of annexes, plus scores of tables, figures, photographs of areas studied, and a very large number of colored and detailed maps of proposed canal routes.

The report rejects proposals for nuclear excavation, on the grounds that technology for that type of project has not been fully developed, new international agreements must be worked out, and there would be unacceptable social costs in terms of displacement of persons.[7] The Commission gave attention to thirty different possible routes and subvariations on them—one in Mexico (Tehuantepec Isthmus), eight in Nicaragua-Costa Rica (all of them variations on a single theme), one in far western Panama near the Costa Rican border, six in the vicinity of the present canal, four in eastern Panama, five which would cross the Panama-Colombia border, and the remaining seven in the Republic of Colombia. Of these, the Commission then concentrated its study on the most likely and feasible routes: Nos. 5 and 8 (Nicaragua-Costa Rica), 10 (a few miles west of the present canal, and just outside the Canal Zone), 14 and 15 (inside the present Canal Zone), 17 (the Sasardi-Morti route, 110 miles east of the present canal and near Colombia), 23 (from the Caribbean coast of Colombia to the Panamanian coast on the Pacific) and 25 (in Colombia).[8]

Of these alternatives, the Commission found No. 10, about 10 miles west of the present canal, to be the least expensive to construct by conventional means (about $2.88 billion) and the most practical from engineering and technological standpoints. The Commission estimated that it would take fourteen years to complete Route 10, and observed further that Routes 10 and 14 (which is within the present Canal Zone) are the only sea-level channels that can be practically excavated without use of nuclear devices.[9]

Other recommendations of the Commission are that (1) multinational participation in the financing of a new canal be secured, (2) there be more Panamanian and fewer U.S. employees associated with the new canal, (3) when the new canal (Route 10) is completed, both the old and new canals be operated as one system, (4) a new treaty should give Panama a greater role, but with continued U.S. control over the entire canal operation, (5) the great economic advantages to be secured by Panama from construction and maintenance of a new canal might attract Panamanian interest in consummation of the project, (6) construction of the new canal should begin no less than fifteen years before traffic surpasses the capacity of the present artery, estimated to be in the last decade of this century—in other words, that construction should begin about 1975, (7) the existing canal (Route 15) should be modernized, and (8) further technical and environmental research must be undertaken before commencement of construction.[10]

The Commission makes only a few very brief references to the possible political reactions of Latin America in general or Panama in particular. Most of these allusions are to the effect that economic advantages or disadvantages from any canal must be considered as influencing political reactions. At one point the Commission demonstrates some awareness of political factors:

"United States relations with Panama could be improved by progressive reduction of the number of United States personnel in the canal operating authority and a concomitant increase in the proportion of Panamanian personnel in the positions normally occupied by United States citizens. Construction of a sea-level canal would facilitate reduction of the United States presence in that it could be operated and defended with fewer total personnel." [11]

The suggestion is that the presence and activity of numerous U.S. personnel is an irritating factor in U.S.-Panamanian relations, and this is undoubtedly a valid point. But it can also be argued that precisely because a sea-level canal could be administered more simply than the present lock canal, it would soon become obvious to Latin Americans that the U.S. presence is unnecessary! As will be demonstrated, there are powerful political pressures within the United States, as well as valid consideration of defense (of which the Commission is quite aware, and mentions frequently) that would make such a conclusion unacceptable in this country—but harder to reject—if a sea-level canal were constructed. The Commission devotes no attention to this possibility, and the further argument of the Commission should disturb elements in the United States which for security reasons or otherwise favor full U.S. retention of the present canal:

"There are characteristics of a sea-level canal which would lend themselves more readily than those of a lock canal to the satisfaction of basic Panamanian aspirations of exercising jurisdiction in the Canal Zone. Without the requirement for sensitive locks and generating plants, and large numbers of foreign personnel, it would be possible to reduce the Canal areas to a minimum and to permit a broader exercise of Panamanian jurisdiction in these areas . . ." [12]

Leaving aside the insult to Panamanian capabilities which is unconsciously implied by this section of the report, the Commission leaves no doubt that, with a sea-level canal, the continued presence of the United States in any form would become even less tenable than it is at present.

On this question of reduction of U.S. personnel upon construction of a sea-level canal, the Commission is at odds with its own recommendations. In a continuation of the statement we have just quoted above, the Commission points out that: "This presumes that a sea-level canal would be operated instead of, not in addition to, the lock canal. This particular advantage would not be attained if the sea-level canal and lock canal were operated as a system." But in its list of major recommendations, the Commission proposes that any new treaty with Panama provides for:

a. Creation of an Isthmian canal system including both the existing Panama Canal and a sea-level canal on Route 10, operated and defended in an equitable and mutually acceptable relationship between the United States and Panama.

b. Canal operating and defense areas that include both the existing Panama Canal and Route 10.

c. Effective control of canal operations and right of defense of the canal system and canal areas by the United States, with such provisions for Panamanian participation as are determined by negotiation to be mutually acceptable and consistent with other recommendations herein.

d. Acquisition of the Route 10 right-of-way by the canal system operating authority as soon as practicable.[13]

In other words, it would be advantageous to have a sea-level canal so that U.S. presence could be minimized (or more likely, eliminated altogether) and Panamanian control could be maximized; but it would also be desirable that the two canals operate in

one system under "effective control" and "right of defense" by the United States—presumably with some kind of canal zone that would be about twice as wide as the present one.[14]

Except for a few other brief allusions to political factors which must be considered in planning for a new canal, the only other attention given by the Commission to this all-important question is contained in the following two paragraphs, entitled "Political Considerations:"

"The Panama Canal is a key element in Panama's political life. It has helped shape the structure of the country's society and set the pattern of its economy. As Panama's primary source of income, the canal largely determines the total amount of economic resources available for allocation. As the single most important stimulus to Panamanian nationalism, the canal is also a readily exploitable emotional issue. Thus, the replacement of the existing canal by a sea-level canal could be a matter of profound importance to Panama's future.

"Panama's attitude toward a sea-level canal will inevitably be shaped by past experience with the existing canal. Most Panamanians are convinced that the United States has not dealt fairly with their country on the Panama Canal. In negotiating an agreement on a sea-level canal, Panama may be expected to place special emphasis on such issues as jurisdiction and economic benefits. Yet, although there are a number of potentially troublesome political problems involved in obtaining suitable new treaty terms with Panama, there are also many considerations which work in favor of United States-Panamanian agreement.[15]

Thus, the report of the Commission seems to conclude that the enormous advantages to be gained by Panama from the construction of a new canal, plus reduction of the U.S. presence made possible by the simpler sea-level artery, will solve the many complex political problems which are inevitably associated with the project. This says nothing about the political implications for Panamanian-United States relations which are involved in the presence of *two* canals within Panama, one the old lock canal and the other the new sea-level artery, the administration of both presumably interlocked within an expanded canal zone.

Whatever might be said about the skimpy attention which the Atlantic-Pacific Commission accords to political factors, the same cannot be said of its attention to other details of a less volatile sort. Most of the over 1,000 pages of the study relate to revenues, costs, tonnages, nuclear and conventional excavation, sizes of ships, volume of present and anticipated transit, tides, geological features, trade and economics, employment, income, defense, finance, slope stability, engineering feasibility, hydro-dynamic considerations, much more in the same vein. Annex V, on "Engineering Feasibility," contains 310 pages—by contrast with the few lines and paragraphs which make passing allusion to political aspects.

According to Public Law 88–609 of the 88th Congress, September 22, 1964, the Commission was charged:

". . . to make a full and complete investigation and study, including necessary on-site surveys, and considering national defense, foreign relations, intercoastal shipping, interoceanic shipping, and such other matters as they may determine to be important, for the purpose of determining the feasibility of and the most suitable site for, the construction of a sea-level canal connecting the Atlantic and Pacific Oceans; the best means of constructing such a canal, whether by conventional or nuclear excavation, and the estimated cost thereof." [16]

It is clear from the above instructions that a primary chore of the Commission was indeed to investigate and study physical aspects of the isthmian canal. This they succeeded in doing, painstakingly and voluminously. However, the Congress did request that they take up the question of foreign relations and "such other matters as they may determine to be important." Almost everything the Commission has to say about U.S.-Panamanian political relations has already been quoted. In addition, under the heading of "U.S.-Panamanian Bilateral Relations," the Commission includes a rather complete summary of three proposed treaties of 1967, which will be discussed next. The Commission's presentation on foreign relations (Annex I, total 59 pages) is devoted almost entirely to economics and trade and says very little about international politics, but does include the few lines cited above on political relations with Panama.

When one considers that the Commission spent some $22 million in the preparation of its report, and came up with a study of over 1,000 pages, and more particularly, that *the very creation of the Commission was a direct consequence of and response to the Panamanian flag riots of 1964,* one would expect that the Commission would have focused somewhat more attention on the political considerations which are so important to the future of any isthmian canal. For solutions to the increasingly emphatic nationalistic behavior of the Panamanians, one needs something more than promises of enhanced economic benefits and reduction of foreign personnel, coupled with treaties calling for continued U.S. control of operation and defense of one or two canals. The Commission report would seem to provide further illustration of a longstanding tendency by the United States to put engineering and physical considerations far ahead of political factors in her relations with the Republic of Panama.

Treaty negotiations

It has been noted that under the Johnson Plan of 1964, the United States was afforded a unique opportunity to secure greater flexibility on the part of Panama. By dangling before the republic the possibility that alternative canal sites might be considered, the United States could have secured a reversal of negative Panamanian attitudes—such as that which occurred when Colombia was confronted with the victorious revolution of November 6, 1903, or when Panama reversed its position on the Rio Hato question after the precipitous U.S. departure in early 1948. That matters did not turn out so happily during 1964–70 may be attributed in part to the political ineptitude that has characterized United States relations with the Republic of Panama, and that apparently continues unabated down to the present day.

During 1964–1967, while the Interoceanic Canal Commission was undertaking its studies of alternative canal routes, U.S. and Panamanian negotiators hammered out treaty details. On June 26, 1967, Presidents Johnson and Marco Aurelio Robles announced agreement on the content of not one but three treaties. These, according to the report of the Atlantic-Pacific Commission, were to be their principal provisions:

"The first of the proposed treaties, that for the continued operation of the present canal, would have abrogated the Treaty of 1903 and provided for: (a) recognition of Panamanian sovereignty and the sharing of jurisdiction in the canal area, (b) operation of the canal by a joint authority consisting of five United States citizens and four Panamanian citizens, (c) royalty payments to Panama rising from 17 cents to 22 cents per long ton of cargo through the canal, and (d) exclusive possession of the canal by Panama in 1999 if no new canal were constructed or shortly after the opening date of a sea-level canal, but no later than 2009, if one were built.

"The second, for a sea-level canal, would have granted the United States an option for 20 years after ratification to start constructing a sea-level canal in Panama, 15 more years for its construction, and United States majority membership in the controlling authority for 60 years after the opening date or until 2067, whichever was earlier. It would have required additional agreements on the location, method of construction, and financial arrangements for a sea-level canal, these matters to be negotiated when the United States decided to execute its option.

"The third, for the United States military bases in Panama, would have provided for their continued use by the United States forces 5 years beyond the termination date of the proposed treaty for the continued operation of the existing canal. If the United States constructed a sea-level canal in Panama, the base rights treaty would have been extended for the duration of the treaty for the new canal." [17]

Meanwhile and subsequently, the Atlantic-Pacific Commission continued its studies to late 1970, and issued its report to the President, as we have noted, on December 1 of that year. Scores of individuals employed by the Commission had been busying themselves in Panama, and more especially conducting the studies related to Route 10, to which the report devotes its major attention and on which it lavishes its greatest favor. For the prompt announcements by newspapers that did appear precisely on December 1, news releases had to be sent out days or weeks before. Also in late 1970, the United States and Nicaragua agreed to abrogate the Bryan-Chamorro Treaty of 1916 which among other things provided for U.S. rights to construct a canal across southern Nicaragua. It would require extreme naïveté to suppose that in the face of these events, Panama had no advance inkling that the Commission would recommend the Panamanian Route 10, and would reject all alternative routes outside of Panama.

In September of 1970 the Panamanian government announced that it did not have the slightest intention of ratifying the proposed treaties. Now, the Panamanian slogan is "Sovereignty or Death," and extension of full Panamanian sovereignty over the Zone is described as the "nation's birthright." General Omar Torrijos, current dictator of the country, warns that if Panama's demands are not met, there will be a "popular explosion," and he will lead it.

It seems hardly credible that a body of distinguished Americans, after spending $22 million, could only recommend that a new sea-level canal be excavated some ten miles west of the present one, under treaties that would somehow accommodate themselves not to one but to two canals in an expanded zone, assure effective U.S. control and defense, and be acceptable to Panama. Rejection by the Commission of all alternative routes outside of Panama left the United States bereft of political leverage in further negotiations with Panama.

Events subsequent to the Commission report support this critical analysis. In mid-July, 1971, negotiations for a new treaty or treaties were reopened. By spring of 1973 no progress whatever had been made toward agreement on any new canal pacts. On the contrary, the Panamanian special counsel in the negotiations, Jorge Illeca, announced categorical Panamanian rejection of everything proposed in the $22 million Commission report. It is indicative of the Panamanian attitude that Dr. Aquilino Boyd, leader of the 1959 riots, is now Panamanian representative to the United Nations Security Council and instigator of a special session by that UN organ in Panama in mid-March, 1973, designed precisely to discuss the canal question.[18]

FOOTNOTES

[1] Lester D. Langley, "U.S.-Panamanian Relations Since 1941," *Journal of Inter-*

American Studies and World Affairs, XII (July, 1970), pp. 357–361; Richard D. Baxter and Doris Carroll, authors of the working paper, and Lyman M. Tondel, ed., *The Panama Canal* (Background Papers and Proceedings, Sixth Hammarskjöld Forum; Dobbs Ferry, N.Y.: Oceana, 1965), pp. 3–7, 37–91; *Pamana: Canal Issues and Treaty Talks* (Washington, D.C.: Georgetown University, The Center for Strategic Studies, 1967), p. 20; "Pamana Takes Hard Stand on Canal," *The Times of the Americas,* January 13, 1971, p. 2; Lawrence O. Ealy, *Yanqui Politics and the Isthmian Canal* (University Park, Pa.: The Pennsylvania State University Press, 1971), pp. 120–126.

[2] *Ibid.,* p. 123.

[3] Langley, "U.S.-Panamanian Relations," p. 362.

[4] *Ibid.,* p. 365.

[5] Robert B. Anderson, Chairman; Robert G. Storey, Vice Chairman; Milton S. Eisenhower; Kenneth E. Fields; Raymond A. Hill. United States, Atlantic-Pacific Interoceanic Canal Commission, *Interoceanic Canal Studies, 1970* (Washington, D.C.: Report to the President, December 1, 1970), pp. v, 1, 4.

[6] Immanuel J. Klette, *From Atlantic to Pacific* (New York: Harper & Row for the Council on Foreign Relations, 1967), pp. 3, 39; Langley, "U.S.-Panamanian Relations," p. 362; Sheldon B. Liss, *The Canal* (Notre Dame: University of Notre Dame Press, 1967), pp. 159, 224; *Panama: Canal Issues and Treaty Talks,* pp. 21–22, 25; Atlantic-Pacific Commission, *Interoceanic Canal Studies,* p. 1.

[7] *Ibid.,* p. 9; Annex II *et passim.*

[8] *Ibid.,* Fig. 1, map, "Canal Routes," p. vi; Fig. 2, "Interoceanic Canal Routes, 1947 Study", p. 3; Table 1, "Canal Routes Selected for Commission Investigation," p. 5; and Fig. 30, "Sea-Level Canal Routes," p. 69, and many other tables, figures and references throughout.

[9] *Ibid.,* Fig. 39, map, "Sea Level Canal Route 10," p. 83; pp. 85–109, *et passim.* George Gedda, "New Panama Canal Urged for $2.8 Billion," *Denver Post,* December 1, 1970, p. 10.

[10] Atlantic-Pacific Commission, *Interoceanic Canal Studies,* pp. 105–109.

[11] *Ibid., Conclusion* 19, p. 107.

[12] *Ibid.,* Annex I, pp. 5–6.

[13] *Ibid.,* p. 108.

[14] For diplomatic reasons Chairman Robert B. Anderson, who was also serving as Special Representative of the United States for treaty negotiations, disassociated himself from recommendations of the report regarding treaty arrangements.

[15] Atlantic-Pacific Commission, *Interoceanic Canal Studies,* Annex I, p. 44.

[16] *Ibid.,* p. 1.

[17] *Ibid.,* p. 11. See also Langley, "U.S.-Panamanian Relations Since 1911," pp. 364–365; and "Panama Takes Hard Stand on Canal," *Times of the Americas,* January 13, 1971, p. 2.

[18] *Times of the Americas,* July 14, 1971, p. 1; Associated Press, December 15, 1971; United Press International column by Ray Holton, May 19, 1971; *Times of the Americas,* January 3, 1973, p. 3; and numerous newspaper dispatches, 1971–1973. According to all reports relating to the riots of November, 1959, to which we alluded in Part 3, Aquilino Boyd (now Panamanian representative on the UN Security Council) personally pulled down the U.S. flag and ripped it to pieces with his own hands.

5. POLITICAL ASPECTS IN THE UNITED STATES

To this point, this paper has explored foreign political factors which are relevant to solution of the "canal question." Although it is unnecessary to devote inordinate space to consideration of the very strong pressures within the United States which demand a continued and undiminished presence of the U.S. in Panama, it would be a mistake to completely ignore this important subject. These pressures are significant to the discussion because they may be sufficiently influential to obstruct or at least hamper any alternative non-Panamanian solution to the canal question. As has been noted, a "solution" that includes a canal within Panama is fraught with numerous difficulties that defy easy solution.

Within the United States, and especially within the U.S. Congress, there is an influential body of individuals, many of them at the conservative end of the political spectrum, which opposes bitterly any concessions to Panama, and in fact would prefer to return to the kind of undiminished U.S. control over the whole Panamanian region that prevailed prior to the Hull-Alfaro Treaty of 1936. In the Congress, these supporters of an unmodified U.S. role in Panama find their voice in Congressman Daniel J. Flood, Democratic member of the House of Representatives from Pennsylvania during 1945–1946, 1949–1952, and 1954 to the present (1973); and Congressman Durward G. Hall, Republican member of the House from Missouri since 1961. Outside the Congress, the American Emergency Committee on the Panama Canal includes well over one hundred sponsors, and its membership reads like a roster of eminent writers, scholars, clergymen, commentators and prominent military personages from the American political center and right.

With regard to understandings that have been reached with Panama during the last third of a century, the Emergency Committee contends that:

"This series of political and diplomatic actions, especially since the Hull-Alfaro treaty of 1936, follows an almost steady line of the disintegration of U.S. authority over the Panama Canal. This disintegration cannot be said to increase the security of the hemisphere or of the United States. It must be justified, if at all, on the basis of political advantage." [1]

Another group, calling itself the Committee for Continued U.S. Control of the Panama Canal, includes seventeen professors, lawyers, editors, executives and engineers, only three of whom are also listed as members of the American Emergency Committee on the Panama Canal. In the words of a memorial presented to the Congress by the Committee for Continued U.S. Control of the Panama Canal,

"It is clear from the conduct of our Panama Canal policy over many years that policy-making elements within the Department of State have been, and are yet engaged in efforts which will have the effect of diluting or even repudiating entirely the sovereign rights, power and authority of the United States with repect to the Canal Zone project. Such actions would eventually and inevitably permit the domination of this strategic waterway by a potentially hostile power that now indirectly controls the Suez Canal . . . ." [2]

Speaking of the Report of the Interoceanic Canal Commission, Congressman Flood and Hall wrote to their congressional colleagues as follows:

"The prime recommendation of this report is for the construction of such type canal entirely in Panamanian Territory about 10 miles west of the existing canal, regardless of the costs or consequences. This recommendation hinges upon surrender by the United States of its sovereign rights, power and authority over the Canal Zone, would open up a Pandora's box of problems, and be against the best interests of the United States." [3]

The views of these groups, and of members of the Congress who agree with them, may be readily summarized: they are absolutely opposed to what they call "give-away treaties;" they insist that the isthmian canal remain exactly where it is; they hold that Panama gave a grant of exclusive sovereignty in perpetuity to the United States, not a lease; and, in brief, they are adamantly opposed to any relaxation of U.S. control over any aspect of the Panama Canal.[4]

In earlier pages it was observed that powerful Latin American pressures, created by historical events and by hemispheric interest and pride, stand strongly against any dominant U.S. presence in the isthmus of Panama. It would appear that Panama has now arrived at her inevitable point of opposition to anything less than full Panamanian control over either the present or any future canal. While it is not possible at this stage to assess the impact of persons in U.S. political life who are determined upon an exactly opposite course, it is to be noted that during 1970, 116 members of the U.S. House of Representatives sponsored identical resolutions opposing any "surrender" at Panama.[5] In his valuable book, *Yanqui Politics and the Isthmian Canal,* Professor Lawrence O. Ealy underlines the strong views of both Representatives and Senators on this subject, and reminds us that these forces will have to be "reckoned with by any president who attempts to settle Panamanian issues." [6]

From this evidence, and from the notability of opponents to any U.S. concessions at Panama, it would appear that it is not reasonable to expect that the United States will find a quick solution to the pressing questions relating to the future of the isthmian canal, canals, or other transit routes.

FOOTNOTES

[1] Walter Darnell Jacobs, *The Panama Canal: Its Role in Hemispheric Security* (New York: American Emergency Committee on the Panama Canal, 1968), p. 5.

[2] Committee for Continued U.S. Control of the Panama Canal, "Memorial to the Congress," memo, 1970.

[3] Letter from Daniel J. Flood and Durward G. Hall, M.C. from Pennsylvania and Missouri, to colleagues of the House, January 22, 1971.

[4] These observations, which are accurate, are based on material which includes the items in notes above (n. 1, 2, 3); and also, letter from the Hon. Daniel J. Flood to this writer, January 14, 1971; a second letter, same source and same addressee, February 1, 1971; statement by Congressman Daniel J. Flood on "Panama Sea-Level Project: Danger of Poisonous Sea Snakes Infesting the Atlantic," *Congressional Record,* Vol. 117, part 1, pages 30–35; and Hearings, House Subcommittee on Inter-American Affairs, August 3, 1970, quoted in *Congressional Record,* Vol. 116, part 23, pages 3189–99.

[5] Letter from Congressmen Flood and Hall to colleagues, January 22, 1971, p. 2.

[6] Lawrence O. Ealy, *Yanqui Politics and the Isthmian Canal* (University Park, Pa.: The Pennsylvania State University Press, 1971), p. 150. For further discussion of contemporary attitudes in both chambers of the Congress regarding the Panama Canal, and the political importance of those who espouse them, see also pp. 112-116, 124, 132-142, 146, 149 *et passim.*

6. ALTERNATIVE ROUTES

It is inevitable that the multiple political problems associated with the present canal lead to consideration of other routes. Therefore, the following considers different routes that have been given primary attention, and the political factors relevant to their evaluation.

Panama

Various investigators, including especially the Interoceanic Commission, have studied a large number of routes and sub-routes within the Republic of Panama. Some of these lie in or near the present Canal Zone. Route 14 would convert the present canal to a sea-

level channel (the present canal being given the designation of Route 15). As previously noted, Route 10, which was favored by the Commission, would lie about 10 miles west of the present artery. Route 17, known as the Sasardi-Mortí plan, would be about 110 miles east of the present canal. There are other alternatives, either wholly within Panama or shared between Panama and Colombia.

It is obvious that from the standpoint of engineering and other physical considerations the present canal through Panama, or any one of several possible routes across the republic, offer numerous advantages. It also appears that from the standpoint of politics they raise numerous puzzling difficulties. The long continued presence of the United States in Panama in almost any form would appear to be unacceptable to the Panamanians. Furthermore, in the modern world of strident opposition to "colonialism" and "imperialism," what is unacceptable to Panamanians is quite likely to be so unacceptable to the most vocal elements of world public opinion that the position of the United States anywhere in Panama will become untenable before the end of this century.

It can be argued with considerable force that a new sea-level canal in Panama is not only irrelevant to the solution of the overriding political problems posed by the republic, but also contrary to the achievement of such a solution. If located near the principal cities of the republic—that is, about 10 miles west of the present canal and therefore approximately 15 miles west of the present eastern or urban borders of the Canal Zone, as is proposed by the Commission, the area of canal activity, especially if both the old and the new canals are to function in a common area, would become even wider and more complex than at present. The capital city would still be close enough to provide a rich source of political agitation. With a simpler sea-level canal, Panamanian demands for full control would intensify, not diminish. Economic dislocations caused by adjustment of the canal route, i.e., sea-level Route 10, to the west of the present canal would introduce an infinite variety of sources for political excitement.

In his thoughtful book, Colonel Kiette points out the extreme political drawbacks which would afflict any new canal in the vicinity of the old one. He stresses that a new canal in Panama must necessarily inherit most of the political problems associated with the old one and he urges that no new canal be constructed near the present Zone. It is his view, one which seems to be sustained by evidence marshaled by this study, that overriding political factors rule out any such project.[1]

For these reasons, it may be argued that a feasible channel at some distance from the present artery, but still within Panama, might offer some solution to these political difficulties. Among others, the Sasardi-Mortí route, or No. 17 in the Commission report, has been looked on with some favor as being physically within the realm of possibility and over 100 miles from the present site. By comparison with the present Panama Canal (54 miles). Sasardi-Mortí would be only 46 miles in length, but would require excavation from a height of 1,100 feet (by comparison with 390 feet at present). Also by comparison, Route 10 would be 53 miles in length and require excavation of a 430-foot divide.[2] One may readily detect that a primary political advantage of the Sasardi-Mortí route is that it is at some distance from present urban centers of Panama. But population would soon gravitate to the new site, even though it would be a less complicated sea-level canal. If the old canal were not abandoned, the new sea-level alternative would not help to solve political problems that are endemic to the old one, or, if the old artery were shut down, the United States would be expected to find solutions to the precipitous decline of economic activity that would befall the principal cities of Panama. There would be a host of problems relative to the presence of a sea-level canal anywhere in Panama, and the Sasardi-Mortí route would probably create as many political problems as it would solve.[3]

No matter what the location, arrangements for a new canal in Panama are quite likely to engender problems even more intense that those associated with continued U.S. control over the old one. In both the United States and Panama, intricate questions must be resolved on (1) the exact solution to the sovereignty issue, (2) the forms and substance of defense, (3) issues of internationalization, (4) solutions to problems of economic dislocation, transfer of populations, and the like, (5) retention of good will throughout the hemisphere, (6) the exact form and content of administration, (7) distribution of revenues, (8) compensation to Panama as well as to the United States, (9) solutions of ecological problems, including those caused by movement of waters and sea life from one ocean to the other, and (10) the satisfaction of important elements of public opinion within the United States and Panama as well as around the hemisphere and world.[4]

Because so many apparently insoluble problems arise in connection with any new canal within Panama, it becomes necessary to give attention to alternative routes outside that country. Some consideration has been given to possible routes in Colombia or Mexico. In neither of these two countries would any sort of U.S. control be politically possible, but it can be argued that under the complete jurisdiction of either of these two large Latin American republics, the sorts of political problems that plague the Panama Canal would not occur. Further, political subversion or infiltration by powerful foreign elements, inimical to the interests of the United States, may be possible, but are less likely in either of the two larger Latin American republics than in Panama.

Colombia

Two possible routes exist in Colombia: (1) what the Commission calls Route 25, near the border of Panama (102 miles), and (2) what the Colombians call the Choco project, which is much longer (260 miles) but takes advantage of lowlands, rivers and lakes, and extends from the Gulf of Urabá to Málaga Bay near Buenaventura on the Pacific.

In its report the Commission speaks quite favorably about the engineering possibilities of Route 25, where the length is compensated by low terrain, easy excavation, and possible utilization of nuclear devices in a sparsely populated area. The Commission finds that this Colombian route would require only about $2.1 billion to construct, but because of nuclear problems, need for more personnel for operation of the longer canal, and unwillingness of Colombia to accept a large United States presence, it would be impractical to recommend serious consideration of Route 25.[5] It is to be noted that the Commission indicates awareness of Latin American sensitivities in this instance. Also, it should be observed that Colombia (area, 455,300 square miles; population, 21.5 million) is no Panama (area 29,200 square miles; population, 1,500,000. If the United States were to decide she could depend on the political security of a Colombian canal, and at the same time would like to rectify political errors of 1903, she could save herself a number of political headaches by assisting indirectly, possibly through the International Bank for Reconstruction and Development or the Inter-American Development Bank, in the financing of a Colombian venture. However, it is reasonable to suspect that the political future of Colombia is too imponderable to assure the success of such a project.[6] In the end, final approval for such an enterprise will come from Colombia, not the United States. Indeed, Colombia could well decide to go ahead with a new canal, independent of any direct financial assistance or approval by the United States.[7]

Mexico

In recent years, there has been talk in Mexico about rejuvenation of old projects for a ship canal which would traverse the Tehuantepec Isthmus, from Coatzacoalcos on the Gulf of Mexico to Salina Cruz on the Pacific. A Mexican railroad, completed in 1907, already traverses the route. This artery, first proposed by the Spanish in 1774, would be 130 miles in length and would require excavation of a maximum elevation of 812 feet (by comparison with 430 feet for Route 10, 1,100 feet at Sasardi-Morti, and 932 feet for Colombia's Route 25).[8]

As early as 1814, the Spanish actually began work on the Tehuantepec canal, but were interrupted by Mexican independence. In 1842, the Mexicans granted to the British right to construct a canal across Tehuantepec, but the British were discouraged by political instability. In 1852, the Mexicans were about to proffer a concession to a U.S. company, but did not because of fears of U.S. annexation of the area. A more recent plan, revealed in February, 1971, was drawn up by the Mexican firm of civil engineers. Ingenieros Civiles Asociados (ICA), which built (with French advice and assistance) the immensely successful new subway system in Mexico City. U.S. estimates of cost of the Tehuantepec artery run to $1.3 billion, but ICA claims that the United States can only envision a huge canal for the biggest battleships, and that the Mexican firm could build the Tehuantepec canal for much less than that figure. It should be noted here that the Atlantic-Pacific Commission made no on-site study of the Mexican route. The Commission refrained from making a serious study of Tehuantepec, in part because of "excessive excavation" and in part because, in the words of the report, "Mexico not receptive."[9] Needless to say, there would be no possibility of foreign control over a Mexican canal. Mexico would retain complete sovereignty and authority.

Since ICA of Mexico broached their proposals in early 1971, little more has been heard on the subject. It is likely that consideration of cost and unavailability of funds may have discouraged further planning for the Tehuantepec canal project, at least for the time being. But in mid-1972, Mexico announced it is giving more serious consideration to plans for modernization and double-tracking of the Coatzacoalcos-Salina Cruz railroad line, and enlargement of the two ports, so that containerized cargo can be carried swiftly from the one side to the other. According to the announcement, transit of the isthmus by this device would require only four hours, and by comparison with the Panama Canal would save three days for shipments from one coast to the other in the northern hemisphere.[10]

The regime of the Mexican PRI, which has offered a sort of quasi-democratic stability for almost half a century, is contributing to Mexican development and economic and political security. The chances for a major revolution in Mexico are as remote as anywhere else in the Americas. The adamant Mexican insistence on non-intervention in her internal affairs, quite understandable in view of her past experiences, often irks U.S. policy makers, but in the Mexican case, policies of total self-determination are directed not only against the United States but also against the whole world. It would be incredible that Mexico would permit foreign interference with her domestic concerns, much less with an interoceanic transit route across Tehuantepec. Mexico, a nation of over 50 million people, with an area almost as large

Footnotes at end of article.

as that of Western Europe, is deserving of confidence if she undertakes such a project. The U.S. role, if any, can only lie in some sort of encouragement and very covert financial assistance. It is conceivable, if Mexico would permit, that the United States might channel funds through one of the international banks, or perhaps even the Export-Import Bank, from which Mexico has accepted loans for rehabilitation of her railroad system.

Of the republics we have considered, Mexico offers the most hope for the kind of political stability and reliability that might make non-U.S. control over such an artery acceptable to this country. For this idea, we have some indirect support from none less than Theodore Roosevelt himself:

"If Brazil, or the Argentine, or Chile, had been in possession of the Isthmus, doubtless the canal would have been built under the governmental control of the nation thus controlling the Isthmus, with the hearty acquiescence of the United States and of all other powers. But in the actual fact the canal would not have been built at all save for the action I took." [11]

Unless it be argued that later political events in Chile throw cold water on Roosevelt's argument, it may be assumed that he would welcome a route across Tehuantepec, constructed and under the jurisdiction of the Mexico of 1973. No route, including that in Panama herself, could be more favorable in terms of shortness of distance between the two coasts of the United States, nor more certain to assure the political stability that is requisite for its success.

Nicaragua-Costa Rica Border

Today, it is seldom recalled how close we came to construction of a canal along the border of Nicaragua and Costa Rica instead of in Panama. The Clayton-Bulwer Treaty of 1850 envisioned a "Nicaragua Canal." Senator John T. Morgan of Alabama (term, 1897-1903) is especially remembered for the courageous fight he made, and almost won, in favor of the Nicaragua route.[12] In November, 1900, an investigating commission appointed by President McKinley, and headed by Rear Admiral John Grimes Walker, reported the Nicaragua route to be the "most feasible and practical" of four possible alternatives, including the one across Panama. A year later the Walker Commission still held to the same view, and on January 9, 1902, the U.S. House of Representatives approved appropriation of $180 million for the Nicaragua route. In the face of strong political pressures, the elaboration of which would go beyond the scope of this paper, the Walker Commission suddenly reversed itself on January 18, 1902, and announced that it favored the Panama route. The Spooner Act, initiated by Senator John C. Spooner to permit excavation of the canal at Panama and to pay the French holding company $40 million for its rights and assets, was passed and signed by the President on June 28, 1902. In this paper, the fascinating story of behind-the-scenes pressures from French interests cannot be detailed. There is no room to describe the unfortunate issuance by Nicaragua of a postage stamp bearing the design of a volcano, nor other events and machinations which helped to bring about this sudden turn from the Nicaragua to the Panama route.[13]

Through the intervening years to the present, many observers have continued to favor the Costa Rica-Nicaragua route, which would utilize the valley of the San Juan River and the depression of southern Lake Nicaragua, with a final short excavation to the Pacific Ocean. Colonel Immanuel J. Klette finds several reasons to support the Nicaraguan route, in terms of climate, political stability, distance from centers of population, and the shortening of some trade routes, notably from one coast to the other of the United States.[14] This author has favored the Nicaragua-Costa Rica route, in part because it would follow the border between two countries instead of cutting through the middle of one, and in part because it might be feasible to consider outright U.S. purchase of the territory in question.[15]

Now, however, the Atlantic-Pacific Commission has effectively crushed any hopes for a resuscitation of the old Nicaragua-Costa Rica route. The Commission tells us that the artery would be over three times the length of the present Panama Canal, that to construct a Nicaraguan lock canal with the present transit capability of the Panama Canal would cost about $4 billion by conventional means, but that a sea-level canal with approximately the larger capacity of the proposed Route 10 would cost $11 billion (by comparison with $2.88 billion for Route 10) if performed by conventional means. Utilization of nuclear devices for such a project (cost, about $5 billion) would involve unthinkable human and social costs in terms of displacement of thousands of people, most of them not in the immediate vicinity, but close enough to be within range of nuclear particles. Furthermore, the Commission points out(though not as a reason for rejection of the Nicaragua-Costa Rica route) that any sea-level channel that could be created by conventional means would require the draining of Lake Nicaragua.[16] From the ecological and human standpoint, to say nothing of the disarrangement of the whole economic life of most of western Nicaragua, this would be an impossible outcome. In brief, only a lock canal is practicable along the Nicaragua-Costa Rica border, and this would cost about $4 billion to construct, but would have no greater capacity than the present Panama Canal.

In retrospect, one may reflect that Senator Morgan of Alabama was probably right, and the lock canal should have been excavated along the Nicaragua-Costa Rica border in the first place, thus keeping it away from the heart of any country. But now, overwhelming costs projected for a sea-level canal (at least as reported by the Commission), and the recent abrogation of the Bryan-Chamorro Treaty between the United States and Nicaragua, suggest that there is no likelihood of a rekindling of that old dream. With all due respect to the numerous important political aspects to which this paper has devoted its attention, one cannot continue to argue for such a route in the face of physical and human obstacles so insurmountable.

Land bridges or "canals"

Mexican proposals for modernization of the Coatzacoalcos-Salina Cruz railroad line illustrate some contemporary thinking about the possible substitution of railroad for seaborne transit across the continent. In this connection, the imaginative suggestion of Rear Admiral R. H. Gibbs, U.S. Navy (Retired), should be mentioned. Admiral Gibbs, writing in the *United States Naval Institute Proceedings* in 1969, proposed that the United States abandon any idea about excavating new canals and instead construct a straight-line railroad from the Gulf of Mexico to the Pacific. He argues that transferral of cargo from sea to train and vice versa can be handled by modern methods in a manner that is quick and efficient, and contends that transit from one side to the other of the United States could be accomplished in shorter time than that now required to get ships to and from the Panama Canal or any other that might be built. As Professor Ealy points out, it is obvious that the proposal of Admiral Gibbs would obviate all the political problems that are endemic to a route in any other location, especially Panama. The "land canal," as Admiral Gibbs calls it, would lie entirely within the United States.[17] Except that it would not meet the problem of movement of naval units from one ocean to the other, and would certainly require an increase in merchant marine units on both coasts, the proposal certainly does have merit in that it meets the political problems which arise from location of the present canal within a Latin American republic.

Admiral Gibbs estimates that by his shortest, straight route, a distance of 1,085 miles would be covered. It might be mentioned here that tracks of the Southern Pacific Railroad already exist from Houston to Los Angeles, a distance of 1,670 miles, and that the Southern Pacific line from Houston is joined by tracks from Corpus Christi to San Antonio, which would shorten the distance to Los Angeles by about 90 miles, to 1,580. Certainly the long channel leading into the Port of Houston suggests difficulties similar to those encountered through a canal, but the alternative port of Corpus Christi may offer some relief from this problem.

It is conceivable that with some double-tracking, straightening of some curves and improvement of roadbed, a feasible mode for carriage of containerized cargoes as an alternative to canal transit could be developed between the Gulf of Mexico and the Pacific, without either the expenses of Admiral Gibbs' straight-line new railroad or the political tribulations as well as costs of a new canal or improvement of the old one. Actually, a sort of land bridge service was put in operation during the summer of 1972. According to an announcement of the Association of American Railroads:

"LOS ANGELES.—The Santa Fe and the Penn Central have begun a land bridge and mini-bridge unit train service between here and the East Coast. The service is being operated in conjunction with Seatrain Lines, Inc., of California.

"The railroads will operate two 60-car unit trains each week—one in each direction—between Los Angeles and Richmond, Calif., and Weehawken, N.J.

"Coast-to-coast five-day delivery is expected, spokesmen for the railroads said.

"Cargo on the trains will consist of traffic between the Far East and the East Coast of the United States, between the Far East and Puerto Rico, between Europe and the West Coast and between the East Coast and Hawaii.[18]

In other words, the Panama Canal is already facing some competition from within the United States. Though the Santa Fe-Penn-Central-Seatrain project is not in the same commercial category with the Panama Canal, and hardly provides a test case for the land bridge concept, it will be interesting to follow developments in this new enterprise, especially in terms of volume of business, types of cargo, origins and destinations, costs and prospects for the future.

These observations remind us that with Mexican completion of the Chihuahua al Pacifico Railroad in 1961, a rail link was created between Ojinaga, Chihuahua (across the border from Presidio, Texas, about 90 miles northwest of the heart of the Big Bend National Park) and the Mexican port of Topolobampo inside the mouth of the Gulf of California. Total distance from Corpus Christi to Presidio-Ojinaga via San Antonio and Alpine, Texas, on existing tracks of the Santa Fe and Southern Pacific Railroads, is about 620 miles. From Ojinaga to Topolobampo the distance is 941 kilometers, or 585 miles, for a total mileage from Corpus Christi to Topolobampo, on existing tracks, of about 1,205 miles, or only 120 miles more than the 1,085 estimated by Admiral Gibbs for his specially constructed straight-line railroad. Of course Admiral Gibbs is proposing a double-tracked railroad that would cut through mountains and over rivers with a minimum of bends, and would assure the fastest possible time from one

coast to the other. These characteristics are not shared by the tracks from Corpus Christi to Presidio, to say nothing of the winding single-track line of the Chihuahua al Pacifico, especially over about 140 miles from Creel, Chihuahua, to Sufragio, Sinaloa, though the rails rest on an excellent, modern and well ballasted roadbed.

If one may judge from the times taken by present passenger train schedules, fast freights could make it from one side to the other in less than thirty-six hours.[19] Satisfactory arrangements would have to be made with Mexico to assure efficient carriage of cargo and modernization of the underdeveloped but potentially splendid port of Topolobampo, without suggestion of any infringement on Mexican sovereignty.

It is quite possible that neither the suggestions of Admiral Gibbs nor modifications of his plan that are offered here would provide viable alternatives to plans for a new isthmian canal, or even retention of the present one if political hurdles can be crossed. Certainly, all proposals for "land bridges" or "land canals" by rail imply the separation of both merchant fleets and navies into two oceans. In the cases of countries of the western hemisphere, including especially the United States, total numbers of ships in both categories would have to be increased, and such a development could well be unacceptable to smaller and less developed republics of Central America and northern and western South America.

However, it seems reasonable to suggest that such ideas be given more serious consideration. In any event, they offer possibilities for utilizing several alternatives simultaneously, thus reducing somewhat the sense of urgency that attaches to the search for new canal routes across the Republic of Panama. They may also have the incidental merit of reducing the flow of traffic through the Panama Canal, thus (1) relieving the congestion of ships demanding passage through that artery, and (2) diminishing the Panamanian zeal to make things difficult for the United States at the Panama Canal.

FOOTNOTES

[1] Immanuel J. Klette, *From Atlantic to Pacific* (New York: Harper & Row for the Council on Foreign Relations, 1967), pp. 96–98, 124.

[2] United States, Atlantic-Pacific Interoceanic Canal Study Commision, *Interoceanic Canal Studies, 1970* (Washington, D.C.: Report to the President, December 1, 1970), Table 3–2, "Initial Screening of Previously Identified Interoceanic Sea-Level Canal Routes," Annex V, p. 23.

[3] Klette, *From Atlantic to Pacific*, pp. 97, 98; Atlantic-Pacific Commission, *Interoceanic Canal Studies, 1970*, Annex I, pp. 7–9.

[4] For more detailed information on these many questions, consult statement by Congressman Daniel J. Flood on "Panama Sea-Level Project," *Congressional Record*, Vol. 117, part 1, pages 30–35, Klette, *From Atlantic to Pacific*, pp. 96–119, 130; Graham H. Stuart, "Should the Panama Canal Be Internationalized?" in A. Curtis Wilgus, ed., *The Caribbean: Contemporary International Relations* (Gainesville: University of Florida Press, 1957), pp. 39–50; U.S., 86th Cong., 2nd Sess., Committee on Foreign Affairs, Subcommittee on Inter-American Affairs, *Report on United States Relations With Panama* (Union Calendar No. 1005, House Report No. 2218; Washington, D.C.: U.S. Government Printing Office, 1960), pp. 33–36; and other sources cited in this paper, *supra*.

[5] Atlantic-Pacific Commission, *Interoceanic Canal Studies, 1970*, pp. 70–75; and Annex I, pp. 45–46.

[6] One must consider the five years (1948–1953) of terrorism followed by dictatorship of General Gustavo Rojas Pinilla, overthrown in 1957, and the current political activities of Rojas and his frenetic daughter, Senator María Eugenia Rojas de Moreno Díaz, "the Evita Perón of Colombia" and "captain of her people," who are enjoying an alarming degree of support. Elections of April 19, 1970, came within a hair of putting Rojas back into the presidency, but regional-municipal elections of 1972 reversed this trend.

[7] Klette, *From Atlantic to Pacific*, pp. 99–102; "Chocó Project is Approved," *Times of the Americas*, June 5, 1968; letter, Marguerita N. Zingaro of Colombia Information Service to James L. Busey, November 29, 1966; letter, Hon. José Camacho, Chargé d'Affaires, Colombian Embassy, to James L. Busey, November 16, 1966; Lawrence O. Ealy, *Yanqui Politics and the Isthmian Canal* (University Park, Pa.: The Pennsylvania State University Press, 1971), p. 145.

[8] Atlantic-Pacific Commission, *Interoceanic Canal Studies, 1970*, Annex V, pp. 23–25.

[9] "Mexico Plans Its Own Canal," *Times of the Americas*, February 10, 1971, p. 5; Ealy, *Yanqui Politics and the Isthmian Canal*, p. 116. For Commission statement, see Annex V, Table 3–2, p. 23.

[10] "Railroad Cuts Transit Time," *Times of the Americas*, April 12, 1972, p. 6.

[11] "Statement on the Panama Canal by Theodore Roosevelt," in James W. Gantenbein, ed., *The Evolution of Our Latin-American Policy* (New York: Columbia University Press, 1950), p. 540.

[12] It is evident that Senator Morgan was seriously concerned about machinations at Panama. A dedicated senator, his thinking on the isthmian canal was inspired by his concern for the national interest of the United States, and his feeling that a canal along the Nicaragua-Costa Rica border would best serve that interest. See Ealy, *Yanqui Politics and The Isthmian Canal*, Chapter 5, "Nicaragua or Panama?" pp. 48–58.

[13] See Roosevelt Centennial Supplement, Panama Canal Review, IX (November 7, 1958), p. 3; and for a detailed study, Ricardo Jinesta, El canal de Nicaragua (San Jose, Costa Rica: Imprenta Nacional, 1958).

[14] Klette, From Atlantic to Pacific, pp. 103-105, 125.

[15] James L. Busey, "Conflict in Panama," The New Leader, XXXVI (February 15, 1960), p. 19; for Congressional response to the idea that the U.S. should purchase any territory in Latin America, see United States, Report on United States Relations with Panama, p. 38.

[16] Atlantic-Pacific Commission, Interoceanic Canal Studies, 1970, p. 67 and Annex V, pp. 27-32.

[17] R. H. Gibbs, "A Southwest Passage?" U.S. Naval Institute Proceedings, XCV (April, 1969), pp. 64-72; Ealy, Yanqui Politics and the Isthmian Canal, pp. 147-148.

[18] "Santa Fe, Penn Central Begin Land Bridge Unit Train Service," Information Letter (Association of American Railroads), No. 2031, August 16, 1972, p. 3.

[19] Figures on mileages and likely times of transit are drawn from current passenger schedules, which are assumed to have some relevance to fast freights. Reliance was placed on Amtrak, Nationwide Schedules of Intercity Passenger Service, Table, "New Orleans/Los Angeles" (Washington, D.C.: National Railroad Passenger Corporation, Effective November 14, 1971), p. 67; Ferrocarriles Nacionales de México, Itinerarios e informes, Tabla 22, "Ferrocarril Chihuahua al Pacifico, Ojinaga-Topolobampo" (México, D.F.: Ferrocarriles Nacionales de México, September-December, 1971), p. 23; and for rail lines in existence, atlases and especially map prepared by Rand McNally Company and Association of American Railroads, American Railroads (Class I), Map of the United States (Washington, D.C.: Association of American Railroads, n:d.).

7. EPILOGUE

In view of the many complex political obstacles that stand in the way of success, it appears unlikely that the United States will or should embark on any new canal project, whether in Panama or elsewhere. Quite contrary to the expectations embodied in the $22 milion study undertaken by the Atlantic-Pacific Interoceanic Canal Study Commission, it is highly improbable that the United States and Panama can agree on any new canal within that republic, or even on any new treaties relative to the old one. Even the Commission entertains some doubt that the United States should plunge ahead with new canal plans at this time. In the concluding paragraphs of its covering letter to the President, the Commission states:

"If suitable treaty arrangements are negotiated and ratified and if the requisite funds can then be made available, we recommend that construction of a sea-level canal be initiated on Route 10 no later than 15 years in advance of the probable date when traffic through the present canal will reach its transit capacity. Current trends indicate that this will be near the end of this century; the specific year can be projected with increasing confidence as it draws near.

"We recognize, however, that the President of the United States and the Congress will continue to face many serious funding problems and must establish the relative priorities of the requirements for defense, welfare, pollution, civil rights, crime, and other problems in social undertakings then existing.

"We specifically recommend that, when the rights and obligations of the United States under new treaties with Panama are determined, the President reevaluate the need and desirability for additional canal capacity in the light of canal traffic and other developments subsequent to 1970, and take such further steps in planning the construction of a sea-level canal on Route 10 as are then deemed appropriate." [1]

Whether we like it or not, these are not the days of Teddy Roosevelt and the Rough Riders of San Juan Hill. For all the political reasons we have described, this paper is even more doubtful than is the Atlantic-Pacific Commission as to the feasibility of any great canal venture to be undertaken by the United States at this time or in the near future.

If a solution is to be found within Panama, it must rest upon a new concept which is indigestible to conservative elements in the United States—that is, that clear distinctions must be drawn between the *canal* and *zone* on the one hand, and *operation* and *sovereignty* on the other. According to this view, which is propounded by Senator Alan Cranston of California and others, it is the wide, U.S.-occupied Canal Zone, not technical operation of the canal by the United States, that is the source of friction between the two countries. Furthermore, according to this version, U.S. occupation of this ten-mile-wide swath through a small republic is not necessary, either for the operation or the defense of the canal. In this view, effective sovereignty including *de facto* political control over the present zone could revert to Panama without injury to United States administration or defense of the canal. It is contended that the Canal Zone was established at an earlier time to provide a wide strip of simulated U.S. life, for the comfort of construction engineers, technicians and administrators and their families, and that this arrangement is now irrelevant to the technical needs of the canal.[2]

Reasonable though such a solution may appear to be, there is no current evidence that the United States is about to give up

Footnotes at end of article.

control over the Canal Zone, retaining only the administrative and technical supervision of the canal and possibly some defense bases. Furthermore, there is no assurance that such a step would not be a prelude to Panamanian demands for full occupation of the canal and all bases.

No matter what projects are undertaken by Colombia or Mexico, or even by the United States with or without Mexico in terms of railroad transit or "land canals," the United States cannot afford to abandon Panama entirely, no matter how attractive such a prospect might seem at first glance. Regardless of arteries elsewhere, there will be a canal at Panama. The very existence of that republic, to say nothing of the needs of small merchant fleets and navies which cannot be split between two oceans, require that an isthmian canal be maintained. The complex Panamanian lock canal is no simple sand-excavated Suez, and Panama is no Egypt, which did manage to administer the Suez Canal before her hostilities with Israel in 1967. In Panama, as at the Aswan Dam, foreign powers will be glad to assist in continuing a work rejected by the United States. At the same time, however, it must be confessed that the existence of alternate routes might have the significant advantage of cooling Panamanian intransigence and enabling Panama and the United States to come to agreements which would be reasonable from both points of view.

Thus it would seem that a combination of encouragement to a Mexican transit route, more serious consideration of "land canal" concepts, prolongation of the United States presence in Panama combined with continued improvement of the present artery and some unilateral U.S. concessions on the question of sovereignty, and no new engineering studies into the indefinite future, may provide the best possible accommodation to the sad geopolitical realities of our times.

One must always be ready to confess that for some problems there may be no solution at all. One is reminded of the following words by James Bryce:

"There is a tale that when the plan for digging a canal at Panama was first mooted, Philip the Second of Spain was deterred from it by the argument, pressed by his clerical advisers, that if the Almighty had wished the seas to be joined, He would have joined them. . . . But when an age arrived in which commercial and scientific views of nature prevailed against ecclesiastics, it became certain that here a canal would be some time or other made. Made it now has been. It is the greatest liberty Man has ever taken with Nature." [3]

At Panama, man not only overcame the obstacles of nature, but also the real or imagined objections of the Almighty. It has been less easy to surmount the impediments of politics. In his study of the canal, Colonel Klette points out that "A waterway which is less expensive in dollars may be most expensive in political consequences." [4] This has been the principal theme of this paper.

The recent investigation by the Atlantic-Pacific Interoceanic Canal Study Commission is at least the fifteenth major canal study conducted by the United States since 1872. Of these, eight related to original construction or later improvement of the Panama Canal. Two focused on the question of constructing a sea-level canal. Three (including that of 1970) examined other routes. One (1872–1876) evaluated results of Navy surveys conducted between 1870 and 1875, and another (1962–1965) was designed to establish guidelines for future studies. In connection with their ill-fated project, the French conducted three major studies between 1876 and 1898. The very first such survey was conducted in 1534 under direction of Captain Hernando de La Serna and Don Pascual de Andagoya, engineers in the service of the Emperor Charles V of Spain. There were numerous others under auspices of Spain during her three hundred years of empire in the western hemisphere.[5]

The final recommendation of this paper is that the next such study commission (and there will surely be one) produce a $22 million, 1,000-page report which examines the canal question only in the light of political considerations.[6]

FOOTNOTES

[1] United States, Atlantic-Pacific Interoceanic Canal Study Commission, *Interoceanic Canal Studies, 1970* (Washington, D.C.: Report to the President, December 1, 1970), first two pages, unnumbered.

[2] "Panama Is No Place for Zone Defense," *Times of the Americas*, October 13, 1971, p. 4.

[3] James Bryce, *South America* (New York: Macmillan, 1916), p. 36.

[4] Immanuel J. Klette, *From Atlantic to Pacific* (New York: Harper & Row, 1967), p. 129. For review of the Klette study and of a contrasting book on the canal, Sheldon E. Liss, *The Canal: Aspects of United States-Panamanian Relations* (Notre Dame: University of Notre Dame Press, 1967), see by this writer, *Western Political Quarterly*, XXI (December, 1968), pp. 758–760.

[5] John Easter Minter, *The Chagres, River of Western Passage* (New York: Rinehart, 1948), pp. 93–95; Atlantic-Pacific Commission, *Interoceanic Canal Studies, 1970*, Annex V, Table 2–1, "Summary of Significant Previous Canal Investigations," pp. 13–15.

[6] Or, the United States might secretly advise Colombia and Costa Rica that she will stand aside while (1) Colombia reoccupies Panama east of the Zone, and (2) Costa Rica absorbs Panama west of the Zone. On the basis of understandings with Colombia, the United States might then assume full sovereignty over the canal and Zone, which would not split any country in two. This could be a future assignment for Dr. Henry Kissinger.

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NOTE: The list that follows is limited to the sources that have direct bearing on the theme of this paper and were consulted in its preparation. For a full bibliography on all aspects of the Panama Canal, see Lawrence O. Ealy, *Yanqui Politics and the Isthmian Canal* (University Park, Pa.: The Pennsylvania State University Press, 1971), pp. 178–185.

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STRUGGLING TO IMPROVE THE GRAIN INSPECTION SERVICE

Mr. HUMPHREY. Mr. President, I wish to point out an article in the September 20 New Republic entitled, "Diseased Corn, Imaginary Soybeans."

This brief article points out some of the major differences which have surfaced in the grain inspection business. The hearings being conducted by the Foreign Agricultural Policy Subcommittee, which I chair, has substantiated the problems developed in this story.

The article makes clear that there are a multitude of opportunities for violation of the law.

Over the past 10 years, the number of Federal grain inspection supervisors was cut from 300 to 220, while the volume of commodities shipped expanded dramatically.

The Foreign Agricultural Policy Subcommittee obtained information from the Department of Agriculture substantiating the fact it has not even requested staff increases to deal with this problem. For fiscal year 1976, its Grain Division had requested an additional 14 man-years, but this request was deleted internally and never even reached the Office of Management and Budget.

Yet the USDA indicated that to do an adequate job, it would need 185 additional technical employees to supervise operations at export locations and approximately 100 additional personnel to supervise inspection at interior points.

The article also deals with the very serious problem of complaints registered with the Department of Agriculture. One Department of Agriculture employee conceded that the Department only listens to complaints—

> Because we have to be nice. There's nothing we can do about them anyway.

The agricultural attachés send back samples of grain which has arrived at foreign ports. However, USDA really can do nothing about substandard shipments, because the grain was inspected when it left the United States, and it was "certified final."

As a result, complaints have not been handled adequately, and many foreign purchasers have given up bringing their problems to the attention of the Department of Agriculture.

Our subcommittee will continue to look into this problem and develop the basis for permanent legislation to deal with the problem. In the meantime, we have developed interim legislation which I believe will be helpful in the short term in dealing with some of the specific problems uncovered.

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

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

DISEASED CORN, IMAGINARY SOYBEANS

"The waterfront is not the Bolshoi Ballet . . ." an attorney for a New Orleans grain elevator told The New York Times in a story about rumors that a contract was out on a federal grain inspector to break both his kneecaps. The inspector had ignored requests from his superiors in the Department of Agriculture (USDA) to keep silent. As a result he helped expose the biggest scandal in the history of the department. To date 36 separate indictments naming 57 people and companies have been handed down by grand juries in New Orleans and Houston. Investigations are spreading into Philadelphia, Baltimore, Duluth and all the major grain exporting ports. Scores of officials—licensed by the USDA—have been named in indictments for bribery, theft, perjury, income tax evasion and other corrupt practices. At least a hundred more indictments are expected.

Technical discussions on the difference between number two corn and number three or on the difficulties involved in weighing soybeans do not make the average reader's heart skip a beat. Few would disagree with Dale Vining, foreign marketing specialist for USDA: "I wouldn't really say grain inspection is exciting." However few would call the abuses and their results boring—fortunes made in the sale of nonexistent goods, threats of death, international intrigue.

One inspector was convicted of accepting payoffs ranging as high as $5,000 to sign certificates stating that ships are clean and fit to carry grain. A check, issued by the Gulf Coast Shipping Corporation, was used as evidence in the trial. The practice of payoffs is apparently so widespread, and blatant, that the check statement clearly notes "Gratuities for Grain Surveyor." It is cheaper to bribe an official than to clean a ship. On June 13, the Des Moines Register reported that wheat intended for human consumption was being loaded into a hold containing oil sludge. The ship had been certified as clean.

Inspectors, licensed by USDA to certify grain quality, have pleaded guilty to receiving payments to grade grain as better than it actually is. Having adulterated the misgraded grain with floor sweepings, jimsonweeds, rice hulls and other "foreign matter," it is possible to sell for pure profit the quality grain that has been withheld. Other defendants have pleaded guilty to conspiracy in the fradulent weighing of grain. On August 7, US Attorney Gerald J. Gallinghouse announced indictments stemming from the sale of "at least nine 'bargeloads'" of nonexistent soybeans and corn. "In April, 1974," the indictment stated, "Portera, Palmisano and Nicholas traveled to Nassau, Bahamas, where each deposited $100,000 in a branch of the Bank of Nova Scotia." Meanwhile USDA receipts appear to show that over a three-year period, a grain elevator—owned by Cook Industries—sold 18.6 million bushels more grain than it received. Such reports have provoked wry comments about storage elevators that grow grain.

Two major grain trading companies have already been indicted. Bunge, which had two billion dollars last year in sales and which controls approximately 12 percent of

America's grain exports, was named by a New Orleans grand jury on charges of "conspiracy . . . to commit systematic thefts of export grain from foreign commerce and to defraud the USDA of its lawful grain regulatory functions. "Bunge is one of the six international companies that control approximately 90 percent of America's grain trade. All of five remaining companies are reported to be under investigation. Former officers of Cook, which controls 11 percent of the trade, have been indicted. The other major company to be indicted is Adnac, which is jointly owned by Archer-Daniels-Midland (ADM) and Garnac. Garnac and ADM are each believed to control 10 percent of the trade. Adnac is also being accused of theft and of corrupting public officials.

Sen. Hubert Humphrey (D, Minn.), recently described grain inspection as a "sort of Rube Goldberg type . . . system." The system has remained essentially unchanged since 1916, when Congress passed the Grain Standards Act in response to foreign and domestic complaints that the grain they were buying was not of uniform quality. The act gives USDA the power to test, license and supervise grain inspectors. Inspection is currently taking place at 183 designated points, with 111 official inspection agencies doing the work. Forty-one agencies are run by the local chamber of commerce, board of trade and grain exchange. Forty-seven are run by private individuals. And 23 are operated by the states. The opportunities for conflicts of interest are plentiful. Many of the same people who own the inspection agencies own the grain inspected. Inspectors are paid according to the number of certificates issued, so it is in their self-interest to be permissive. Also officials are regularly stationed at the same grain company elevator, where they form close working relationships with employees. Frequently they feel more like company employees than inspectors.

While federal employees are prohibited from conducting original grain inspection, the Department of Agriculture has final responsibility for the work of the licensed inspectors and can—with cause—have licenses revoked or suspended. Because of budget-cutting measures, in the past 10 years the staff of federal grain inspection supervisors was cut from 300 to 220. During the same period grain exports rose dramatically. For example, in 1969, the US exported $5.7 billion in agricultural commodities and in 1975 the figure was $21.6 billion. (Over half the exports are grain.) While the grain division was cutting back on its staff, complaints from foreign buyers poured in. Some were not even reported. One former agricultural attache said he did not report the arrival of weevil-infested rice in Iran; another former attaché was in Germany to watch corn that arrived "burning up." Last week an official in the Foreign Agricultural Service (FAS) said, "As price goes up the complaints go up and as price goes down the complaints go down." He said the Department of Agriculture only listens to complaints "because we have to be nice" and "there's nothing we can do about them anyway." As a matter of form, USDA instructs agricultural attachés—who are USDA employees—to send back samples of grain for inspection. The samples—which ideally are in five pound units—arrive in diplomatic pouches, and the mail room of the State Department sends them over to USDA.

But even if the Grain Inspection Division finds that the samples corroborate foreign complaints of insect-infested, musty, protein-deficient, damaged, substandard, dusty, poisonous grain containing rodent droppings, glass, other grains and "weevil-bored kernels," it can do nothing about it. Since the grain was inspected when it left the United States, it is "certificate final." The Department of Agriculture is in a Catch-22 position. Even if it can be proved that the grain was damaged or was sent short of weight, Department of Agriculture certificates say that it wasn't. So the complaints have been ignored and continue to be ignored. Until July 1, the department's office of investigation was not informed of the results of testing. Even though the department has the authority it only recently requested that agencies keep samples of inspected grain, to be compared with foreign samples.

Secretary of Agriculture Earl Butz and his under secretary J. Phil Campbell were informed by newspaper accounts by William Robbins of *The New York Times* and James Risser of the *Des Moines Register* that a 1969 study prepared for the Department of Agriculture warned, "After listening to complaints for three weeks and seeing the look on peoples' faces and in their eyes when they accuse the inspection system of being subject to bribery, I cannot stress too strongly the part good inspection practices, constant supervision and quality control must play in helping this country retain the overseas grain markets."

Rep. Jamie Whitten (D, Miss.) and Neal Smith (D, Iowa) blamed the department for failing to heed its own warnings because Butz abolished the office of inspector general in 1974. The office had been created after the Billie Sol Estes grain elevator scandal of 1962. Whitten said that he helped then Secretary of Agriculture Orville Freeman to set up the office, "for it was clear that the various agencies in the department could not be permitted to investigate themselves or they would cover up corruption and mismanagement."

Butz, in abolishing the office of inspector general, split its function between the office of investigation and the office of audit. Both offices investigated charges of corruption and found them baseless. It was only after the US attorney's office in New Orleans and the FBI began their own investigations that the Department of Agriculture decided to join in the effort. Neal Smith said, "I don't think Butz wanted to hear about what was wrong with the way the department was operating. If he didn't know about what was wrong, he just thought it would go away, or would be someone else's responsibility."

On August 18 President Ford vowed to clean up the grain scandal. In a speech at the Iowa state fair in Des Moines, Ford said, "I can assure all farmers and their overseas customers that we will move vigorously to clear up this problem." Four days earlier, Bernard Brenner, of United Press International, reported that the White House's Office of Management and Budget had rejected Secretary Butz's suggestion that grain be inspected by state and federal departments of agriculture, instead of by private individuals. The White House was reported to be against the plan because of fears that it would be inflationary, even though the cost would be absorbed through fees charged for grading.

This week Rep. Thomas S. Foley (D, Wash.), chairman of the House Committee on Agriculture, is to hold hearings on the scandal. Last week Sen. Humphrey's subcommittee on Foreign Agricultural Policy was scheduled to meet to polish up and vote on an emergency grain inspection bill. Meanwhile the General Accounting Office, Congress' investigative arm, has been asked to do a serious study of the scandal and produce a report by February 15, 1976. Sen. Dick Clark (D, Iowa) has asked the Multinational Corporation subcommittee to widen its investigation of the principal grain trading companies. A member of Clark's staff says that he suspects that some of the major grain trading companies are deliberately adulterating American soybeans so as to make them less competitive, and thus boost the market for soybeans from Brazil, where there are reports of large landholdings by grain trading companies.

Finally a complaint recently received by the Department of Agriculture reports that 30,000 pounds of corn—shipped to Honduras by CARE (Cooperative for American Relief Everywhere)—was so badly infected that it was not only dangerous for humans, but for livestock as well. The corn, which was donated by the government's Food for Peace Program for the hurricane victims of Fifi, which left 5000 dead and 100,000 homeless, had to be dumped at sea. By the time the condition of the corn—which had been certified by licensed grain inspectors—became known, it was too late. The people for whom the corn was intended had long since sickened or died.

GEORGE MEANY'S MESSAGE: FIGHT JOBLESSNESS WITH JOBS

Mr. WILLIAMS. Mr. President, the Senate Budget Committee heard from George Meany today. He appeared to testify on the direction he believes the Congress should take in its second budget resolution for fiscal 1976.

In his customary blunt and unequivocal fashion, Mr. Meany called upon the Congress to adopt an economic game plan that puts people ahead of budget deficits, that favors production lines over unemployment lines, and that fights joblessness with jobs. It was a message that many of us could, and do, agree with as a statement of our immediate imperatives.

In recent weeks, there has been an extraordinary amount of analysis in the press of the image of George Meany and of the great labor organization that he has molded in his image, the AFL–CIO. Not all of the analysis has been flattering, having been stimulated by Mr. Meany's exceptional efforts to curb the sale of American grain to the Soviet Union.

Such efforts by the President of the AFL–CIO constitute only one facet of his and his organization's relentless pursuit of a better life, not only for its members, but for all working peoples. Mr. Meany's testimony before the Budget Committee provides more than a glimpse of these humanitarian concerns.

A profile of George Meany appeared a week ago in the Washington Post. Reading it together with his Budget Committee testimony may give my colleagues a sense of my own reaction to the events of recent months and to the momentous challenge that stands before us as Members of the Congress.

Mr. President, I ask unanimous consent that the Washington Post article on Mr. Meany and his testimony before the Budget Committee be printed in the RECORD.

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

YEARS FAIL TO DEFLECT GEORGE MEANY

(By Robert G. Kaiser)

By the age of 81, according to the actuarial tables, the average man would be dead. George Meany, who celebrated his 81st birthday last month, is no average man.

At an age when most men would be content with a diverting retirement, Meany presides actively over the American labor movement, chain-smokes long Jamaican cigars, plays golf, tends his garden in Bethesda, eats and drinks with gusto, reads voraciously—and rejects all talk of retirement.

He seems to have the hearing, eyesight and quick mind of a man at least 20 years younger. In a room full of people he misses little, if anything, going on around him.

Al Zack, Meany's press spokesman, can think of only one precaution "The Boss" takes because of his age. "He doesn't eat corned beef and cabbage." On the train ride from Florida to Washington in 1971 Meany suffered a hiatal hernia. He didn't enjoy it.

"Oh," Zack added as an afterthought, "he also sees his doctor every six months for a checkup."

Eighty-one seems to be an age that suits George Meany, the imperious curmudgeon of American labor. Last week he again demonstrated his power by forcing a change—or at least providing the excuse for a change—in American foreign policy, when President Ford responded to labor pressure by announcing a new policy for grain sales to the Soviet Union.

That was a classic Meany victory. It was not achieved with much subtlety. He challenged the Ford administration with the threat of a longshoremen's boycott of new grain shipments to the Soviet Union, declaring that "foreign policy is too damned important to be left to the Secretary of State." He demanded a new policy to protect American consumers, but wouldn't propose one himself. That, he said, is what the President is paid for.

The nation's editorialists were furious. AFL–CIO headquarters could find just three newspapers that approved of Meany's tactics: the Cincinnati Enquirer, the Manchester, N.H., Union Leader, and the Worcester, Ohio, Record.

Yet Meany's bluster apparently had precisely the effect he hoped for. It forced the Ford administration to act on a problem that was obviously troubling it already—the inflationary impact of unpredictable Soviet grain purchases—and probably also helped Meany's members in the maritime industry, which hope to get more employment from the grain trade.

Meany's willingness—eagerness may be the word—to throw this weight around makes public officials, politicians and editorial writers uncomfortable.

"What the hell is George Meany trying to do anyway?" an exasperated farm-state senator asked last week. "Mr. Meany . . . still has the government dangling at the end of the dock-wallopers' baling hook," The New York Times wrote, commenting on the lifting of the longshoremen's boycott—which is only temporary, pending the outcome of negotiations now under way in Moscow.

Meany recalls proudly now how his AFL–CIO became the first significant institution in the country to call openly for Richard M. Nixon's impeachment. That was in October, 1973, long before impeachment looked like a serious possibility to most Americans.

Now Meany looks forward to a new test of labor's political influence next year, when he hopes the AFL–CIO can help elect "a liberal Democrat . . . like Harry Truman" to the White House.

Meany's use of power inside the labor federation has been even more effective than his maneuvers in national politics. He has outwitted or outlived almost everyone in the labor movement who might pose a threat to his leadership, and the AFL–CIO is now virtually a personal fiefdom.

The president of a large international union in the federation was once asked how people were chosen to sit on the AFL–CIO's Executive Council. The answer, he replied, was simple:

First, he said, get yourself elected president of your union. Then on a Saturday morning put your lawnmower into the trunk of your car and drive out to Meany's house in Bethesda. Start mowing the lawn. When George comes out to get his paper, wave hello.

Then on Sunday you should just happen to be in the locker room of the Burning Tree Country Club when George walks in to play golf, and you should say "Gee, George, can I carry that bag for you?" And before you know it you will be a member of the Executive Council.

That story was told with tongue in cheek, but it was told by a man with good credentials. He had won a seat on the Executive Council.

Meany's domination over the labor organization is a source of great frustration to some younger men and the leaders of a few unions who don't always agree with his policies. Most of labor's higher echelons are filled with Meany loyalists.

"One would wish him to resign," the 32-year-old president of a union local in a large Northern city said last week, "but that doesn't seem likely."

Meanwhile, that young labor leader asked that his name not be mentioned in the paper.

Meany's ideas dominate the AFL–CIO as thoroughly as does his personality, and no idea is stronger in his mind than anti-communism. It obviously played a role in his opinion of grain sales to the Soviet Union. Detente—and Secretary of State Henry A. Kissinger, its chief architect—are two of the principal bogeymen in Meany's world these days.

Some of Meany's critics regard his ferocious anti-communism as a kind of permanent blind spot. "He's too obsessed with the idea that his ticket to heaven will be for killing foreign Communists," said an official of one major union.

Apologists note that Meany's animosity embraces dictatorships of all kinds. Like officials or representatives of the Soviet government, any emissary from Franco's Spain is forbidden to enter AFL–CIO headquarters on 16th Street.

Meany is as stubborn in his friendships as in his enmities, according to many past and present associates, a trait which also played a role in the grain episode.

Meany has known John T. Dunlop, the Secretary of Labor, since World War II, when they worked together on the War Labor Board.

"Meany trusts Dunlop," an associate said. Dunlop was the man President Ford designated to try to work out a compromise with organized labor to end the longshoremen's boycott of grain bound for the Soviet Union.

Dunlop produced a compromise plan that did not involve any curtailment of grain sales to the Russians, but proposed requiring them to make commitments for minimum purchases over a long-term period. The idea of this is to reduce the impact of Soviet purchases on U.S. prices. Meany accepted the deal, not least, according to several sources, because he trusted Dunlop to be fair.

There is no hint of embarrassment at AFL–CIO headquarters about the fact that Meany intervened in the foreign policy making process.

Lane Kirkland, a Meany protege who is the federation's secretary-treasurer noted in an interview that his boss has been involved in foreign policy for a long time—"a lot longer than Henry (Kissinger) has."

"We've always felt we had a role in foreign policy," Kirkland said. "It wasn't something to be left to Cordell Hull or Ed Stettinius or Dean Acheson—or whoever happened to be Secretary of State. It's perfectly natural for us to get involved. It's a pluralistic society and you don't leave everything to whoever happens to be the secretary."

Meany declined to be interviewed.

There have been six Secretaries of State since Meany was elected president of the old American Federation of Labor in 1952—and several more since he joined the labor movement as an apprentice plumber in 1910. By all indications Meany expects to survive half a dozen more secretaries before relinquishing his scepter as the king of American labor.

STATEMENT OF GEORGE MEANY, PRESIDENT, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS BEFORE THE SENATE BUDGET COMMITTEE, SEPTEMBER 24, 1975

We are very glad to have this opportunity to express the AFL–CIO's deep concern for the issues involved in this congressional review of the federal budget and our deep conviction that this committee has the power and responsibility to do much to end the present economic mess.

Let me make our position clear:

The crucial problem facing the country—despite what the President says—is the number of unemployed, not the size of the budget deficit.

The role of this committee should be to propose a budget that will turn the economy around. If this committee does its job properly, it will put America back to work and live up to the mandate of the Employment Act of 1946.

And that's the way to balance the federal budget—make taxpayers out of today's tax users—those unemployed through no fault of their own.

The economy is in deep trouble. Six and one-half years of economic mismanagement, widespread unemployment, eroded purchasing power and two back-to-back recessions have taken their toll.

The worst economic crisis since the 1930s is not over. It won't be over until the unemployed are back to work.

The economy is weak and more vulnerable than at any time in history. That means simply and clearly that the fabric of American society is in jeopardy.

The emergency tax cut enacted by the Congress last March helped to cushion the decline. So did the release of some impounded funds as well as the short-lived decline in interest rates and the unemployment insurance system. But this has not been enough.

The federal government did not provide the strength and forward momentum that could be measured in jobs, living standards, and a restoration of confidence.

The economy has not even begun to get back on its feet and there are problems developing that could trigger another, even more dangerous downslide.

So, in addition to rebuilding the economy, the Congress now must face up to the challenge of preventing another downturn. It must act quickly; it must demonstrate that it has the ability, courage and faith in the future of this nation to make the necessary investment.

Since the beginning of this year, unemployment has been higher than at any time since 1941. In August, the unemployment rate was a shocking 8.4 percent and there is widespread agreement that this figure is a substantial understatement. According to the latest official count, at least 1.2 million workers had dropped out of the labor force because they knew no jobs were available. That means that about one out of ten workers are jobless and, in addition, 3.1 million are on part-time schedules through no fault of their own.

That adds up to over 12 million people—almost 13 percent of the labor force.

There are some who contend that this is an improvement. They overlook the fact that these are summer-time figures and thus distorted. We would remind this committee that the AFL–CIO has repeatedly pointed out that

the June, July and August figures for unemployment are understated.

In August, the Labor Department reported that 133 of the nation's 150 major employment centers were suffering from extraordinary high unemployment. It was the fifth consecutive month in which a record high was set. Including smaller areas, the Labor Department reports that a total of 946 out of approximately 1500 American communities suffered "substantial" unemployment. In other words, the entire country has become a distressed area.

Unemployment for major groups of workers is at depression rates. Unemployment was 19.9 percent among construction workers, 21.1 percent among teenagers, 14 percent among blacks and 10.5 percent among factory workers. For black teenagers, it was a disastrous 37.4 percent.

Among 20–24 year-old men, the jobless rate was 14.2 percent—about double the 1973 rate and approximately triple the rate of the late 1960s. And among heads of households, the unemployment rate was 5.5 percent—almost double the 1973 rate and nearly three times the level of 1967–1969.

At this rate, 20 million Americans will be unemployed sometime during 1976, and 12 million of those will be jobless for at least five weeks.

Combined with this huge unemployment problem is the fact that industry is operating at only 66.5% of its productive capacity. One-third of American industry is idle.

Key industries like home-building and auto are in weak condition, with no strong, sustained revival in sight. The real volume of retail sales has picked up a bit from last winter, but is still 3% below a year ago. Business outlays for plant and equipment, in real volume, began to decline in the latter part of 1974 and are still heading down, with no outlook for an early upturn.

The Administration's mid-year budget review, released at the end of May, forecasts an unemployment rate of 7.9 percent for 1976 or about 7½ million jobless.

Moreover, the Administration's mid-year review projects three successive years—1975, 1976 and 1977—of the highest unemployment levels since 1941, when the country was coming out of the Depression. This official review predicts continuing high unemployment in 1978 and 1979, which means about 6 to 8 million unemployed for the rest of this decade. As far off as 1980, five years from now, according to this Administration, the unemployment rate will be 5.1 percent or about 5.2 million jobless.

Can you, Mr. Chairman, or anyone else take any satisfaction out of these predictions?

Statistics fail to present the human and social impact of unemployment. The sudden, involuntary loss of a job in America's work-oriented society is a tragedy.

There is, of course, the loss of income, which affects retail sales and the economy as a whole, as well as family living standards. Unemployment insurance is an important cushion, but at an average of $68 a week, it's not enough for American families at today's living costs. There is the burden of debt and unpaid bills. There is also unwanted idle time, the loss of self-esteem, often accompanied by stresses in family relations and contribution to alcoholism, drug abuse, crime and mental illness.

Millions of young people, who will be entering the job markets—white, as well as black; college graduates, as well as high school dropouts; young adults in their twenties, as well as teenagers—are being told that there are no career-potentials for them, in the mainstream of the economy, for at least the next five to six years. At the same time, millions of jobless are told that the official policy of their government is that they must continue to suffer for many years.

This is the meaning of the Administration's vetoes of badly needed job-creating legislation, while it actively advocates increases in energy prices which boost the living costs of American families. This is the message of the Federal Reserve, which tightens monetary policy and increases interest rates.

This should not be the message of the Congress.

Look at these danger signs:

The emergency cuts in the individual income tax, designed to stimulate the economy and create jobs, are scheduled to terminate December 31, 1975. If these cuts are not extended, American consumers will lose $9 billion in purchasing power next year. Evidence of the need for continuation of the cut in withholding rates was contained in the Labor Department's September 19 report on the buying power of the average worker's weekly earnings. It showed that the decline of 2.7 percent from a year ago was "overcome by a reduction in federal income tax withholding rates which went into effect May 1, 1975." In other words, the only thing that was keeping the workers' head above water was the tax cut and, unless the Congress acts, that lifejacket will be yanked away on New Year's Day.

Interest rates are increasing again.

The high rate of inflation continues because of rising fuel and food prices and higher interest rates.

The crisis in the nation's largest city could create chaos in the money markets, trigger similar crises in other areas and sharply undermine the ability of the nation's states and localities to maintain services, build needed facilities, and make a contribution to economic recovery.

These facts support only one conclusion. Substantive federal government action is needed. The Congress must develop a program to overturn the economic policies of the Administration, turn the economy around, put America back to work and prevent the onset of another economic catastrophe.

On March 14, 1975, prior to the adoption of the first budget resolution, we stated, "the federal budget must be based first and foremost on an analysis of the nation's needs and the federal government's responsibility in meeting these needs."

The AFL–CIO has made no secret of its dissatisfaction with the first congressional resolution on the budget adopted last May.

We sponsored a newspaper advertisement in which we emphasize the obvious but too often forgotten fact that "there is only one solution to unemployment and that is jobs."

We posed the question for the President and the Congress: "Have you lost confidence in America?" We called attention to the fact that the federal deficit is money borrowed to invest in the future of America. And we said that the President and the Congress, in attempting to hold the line on the budget deficit, were putting dollars ahead of people.

On July 31, the AFL–CIO Executive Council asked the Congress not to surrender to the budget deficit fear psychology fostered by the President and his spokesmen. The Council pointed out that "had this fear prevailed during World War II, Adolph Hitler would have dictated the victory terms." And we called upon this Committee and the House Budget Committee to "demonstrate concern for the plight of the American people and provide necessary funds for programs to create jobs, ease the suffering of the unemployed and thus reduce the budget deficit."

The intent of the Congressional Budget Control and Impoundment Act was to enable Congress to reassert its rightful role in setting national goals and priorities. Prior to the Act, the Congress did not have the staff, structure or the administraitve machinery to cope with the intricacies of the federal budget. As a result, the Congress could not set forth a comprehensive blueprint of its own priorities or effectively challenge those of the Administration.

The 1974 legislation changed all this—on paper. But in actuality, the Congress has neither challenged nor overturned the disastrous blueprint for America that the President presented to the Congress and the nation in his budget message of last February. Although Congress did reject many of the President's proposals to slash funds from existing social programs, in terms of the stimulus needed to create jobs and move the economy forward, the Congressional budget represented little more than an endorsement of the Administration's priorities—five solid years of massive unemployment.

And over the following months, despite the continuing weakness in the economy, those priorities were continually restated and reinforced.

When President Ford reluctantly signed the tax cut into law, he pointed to a chart and said: "This is as far as we dare go." He was pointing to a $60 billion projected budget deficit. He did not point to an unemployment chart and say, "This is as far as we will let it go."

On May 30, in the Administration's mid-session budget review, the first comment concerning the FY 1976 budget was a reference to the revised deficit projection and a warning to the Congress that "unless early action is taken by the Congress on other budget reductions proposed by the President, the estimated deficit for 1976 will rise still further."

Yet, that same budget review contained an upward revision of unemployment for 1975 of over 500,000 more workers and presented the same frightening outlook for unemployment for 1976 through 1980.

The actions of the Administration indicate clearly that it is determined to make these unemployment predictions come true. The President has vetoed job-creating legislation, has put forth tax proposals which would further weaken the economy by giving more tax bonanzas to big corporations and the rich; and has actively advocated huge increases in consumers' energy costs.

The AFL–CIO supported the Budget Act. At the same time, we had some apprehensions because we did not want the new budget process used as a political tool for the Congress to engage in budget-cutting one-upmanship with the President.

Unfortunately, this is exactly what has happened. The first budget resolution, as analyses and publications have served to rivet attention to broad dollar "targets" generally and the dollar deficit in the federal budget specifically. It has put every senator on notice that actions and votes are to be evaluated by accounting standards and not national needs.

There is, for example, a weekly "Senate Budget Scorekeeping Report" prepared by the Congressional Budget Office in cooperation with this committee.

The report provides every senator with a dollar tally of major legislation that has been enacted or has some potential for enactment. The spending target fixed by the first concurrent resolution is presented in boldface type as are figures showing how closely the Congress is adhering to its expenditure targets.

This report states in the introduction that it "is designed to provide legislative actions." Yet, crucial legislation is cited only in terms of dollar cost and potential impact on the budget deficit—never on the basis of need or value.

The message is obvious. Anything that goes over the target—increases the fiscal 1976 deficit—is bad. Anything under is good.

As far as we are concerned, Mr. Chairman, that's stupid.

There is only one target that this Commit-

tee should be aiming at and that is the needs of the American people.

If meeting those needs adds up to a FY 1976 deficit of $80 or $90 or $100 billion—so be it; and, if more is required, then more should be provided.

There is no denying the fact that the budget deficits in the past several years have been huge. In fact, during the years from fiscal 1970 to 1975 there were back-to-back deficits totaling $110.4 billion. That's twice as much as the accumulated net deficit of the previous 23 years.

But these deficits were the direct result of over 6½ years of misguided economic policies—two deliberately engineered recessions, bridged by a short-lived politically inspired pickup.

Mr. Chairman, when the Nixon Administration took office in January 1969, the unemployment rate was 3.4 percent. It never got any lower. In 67 of the 80 months since then, unemployment was over 4 percent. That's why there are deficits.

The President's own 1976 budget message candidly stated that if unemployment were at fiscal 1974 levels, tax receipts would be higher and payments to the unemployed lower. There would have been a budget surplus.

Using the Administration figures, this translates into a loss in federal tax receipts and an increase in expenditures of approximately $16 billion for each percentage point increase in the unemployment rate.

This Committee, in its report accompanying the first resolution on the budget, stated, "The only way to stop deficit spending is to bring the economy close to full employment." We couldn't agree more.

The trouble is the Committee did not heed its own counsel.

We think it important to point out that budget outlays for unemployment benefits and other expenses directly related to recession low incomes, and joblessness (public assistance, food stamps, etc.) totalled $14.3 billion in FY 1973, the year before the recession. In 1974, these payments rose to $20 billion and in 1975 to over $31 billion or more than double pre-recession levels.

There's another budget figure we feel is shocking. In 1976, interest on the federal debt is expected to total $34.4 billion—that's $11.6 billion or 50 percent higher than the total of three years ago, and 11 percent more than last year.

Mr. Chairman, everytime Arthur Burns works his black magic and causes interest rates to increase by 1 percent, he's robbing the federal treasury of about $1.5 billion.

Let's talk about inflation for the moment.

The inflation of the past three years, as well as in recent months, is overwhelmingly due to price increases for food, energy and interest rates. Food and energy increases have no relationship to the size of the budget deficit, as your reports conclude.

And, let me remind you, this committee can't do anything, about prices in those areas.

So, the fear of inflation must not become an excuse for inaction. The real issue before this committee is building a healthy economy.

Let me also remind you, the economic history of this nation shows conclusively that massive and continuing stimulative measures are necessary to achieve full recovery.

We repeat, this recession is not over. The official announcements heralding its end are based on statistical nonsense. The recession will not be over until America is back to work. Let me point out to this committee that although the production indexes may no longer be declining, they also ended their decline in March 1933 and no one uses that date as the end of the Great Depression.

At the beginning of this year, the economy was on the edge of disaster. The emergency tax cut prevented a tailspin, but neither the 1975 tax cut nor this Committee's endorsement of its extension to 1976 will be sufficient to put an end to the recession. Much more is needed.

The programs we advocate are investments in the future. They are investments which will pay off in the health and welfare of this society—that's the only way any government investment can or should be measured.

We know that this Committee does not have the responsibility for developing and recommending enactment of specific programs. But this committee does have the responsibility for spelling out the goal of economic recovery and the ways of achieving this recovery. This is the task before you.

We urge adoption of a budget resolution which at least provides sufficient funds for the enactment of:

1. Accelerated public works to create jobs—on construction sites as well as in the production and distribution of building materials and equipment—by providing funds to local governments for needed short-term public works construction and repairs.

2. An expanded public service employment program to create jobs while meeting public needs for improved and enlarged services.

3. Extension of the individual income tax cuts through 1976.

4. Federal aid to state and local governments hard-pressed by high unemployment.

5. Federal funds for the restoration of railroad tract and roadbeds.

6. Basic improvements in the outmoded unemployment insurance system.

7. A federal program to continue health insurance for the unemployed who lose their coverage when they lose their jobs.

8. A comprehensive energy policy to rapidly reduce dependence on imported oil and to establish U.S. energy independence.

9. Establishment of a new Reconstruction Finance Corporation-type agency to provide government loan guarantees and low-interest long-term loans for the preservation and creation of jobs in the private sector, including housing, as well as to assist state and local governments.

10. Legislation to close the major loopholes in the tax structure, which could raise as much as $20 billion of additional federal revenue.

11. Rapid release of previously impounded funds.

We also urge this Committee to emphasize the importance of legislation directing the Federal Reserve to cut interest rates and to require banks and other financial institutions to allocate available credit for such high-priority purposes as housing.

The AFL–CIO program is designed to bring the national economy back to full employment. What is needed are jobs at decent wages for the unemployed and jobs for the growing labor force. Jobs and incomes that can provide the American people with confidence in the future.

This committee has to face the hard facts. America must create some 70,000 new jobs each and every week over the next three years if we are to approach full employment in 1978.

This is the key task of government. Given an unresponsive Administration, Congress must provide the leadership.

It is the responsibility of this committee to provide the framework for Congressional action.

SUIT FILED AGAINST DEPARTMENT OF COMMERCE BY ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH ON HANDLING OF ARAB BOYCOTT REQUESTS

Mr. STONE. Mr. President, on September 22, 1975, the Subcommittee on Oversight and Investigation of the House Committee on Interstate and Foreign Commerce, chaired by Congressman JOHN E. MOSS, held hearings into the refusal of the Secretary of Commerce, Rogers C. B. Morton, to comply with a congressional subpena issued by that subcommittee. The subpena seeks that Secretary Morton turn over the names of U.S. companies which have supported the Arab boycott against Israel. The Export Administration Act of 1965 states that it is the policy of the United States to oppose restrictive trade practices or boycotts imposed by foreign countries against other countries friendly to the United States. Department of Commerce Export Administration Regulations of 1974, Section 369.2, requires that U.S. firms which receive requests to boycott a foreign country must report such requests in full to the Department of Commerce. The Commerce Department has received such reports and has refused to make them available to the public and even to the Congress.

Last June the Department of Commerce distributed throughout the American business community a notice from the Government of Iraq stating its intention to buy over 3,500 prefabricated buildings, seeking bids from U.S. firms to fill this order. Paragraph 13 of the Iraqi notice contained boycott provisions stating in essence that U.S. firms which trade with Israel would not be eligible to bid on this project. This requirement is in direct violation of both official U.S. policy and the Export Administration Act. Yet, the Commerce Department disseminated the bid with the boycott clause fully intact.

At issue is more than one Iraqi Government project or several unpublicized compliance reports. What is at issue is the possibility that the Department of Commerce, intentionally or unintentionally, may be violating the law by distributing boycott information and by refusing to make public information on U.S. firms which have signed business contracts that enforce the Arab League's Israeli boycott.

On September 9, 1975, the Anti-Defamation League of B'nai B'rith filed suit in the U.S. District Court for the Southern District of New York against Secretary Morton seeking public disclosure of the names of U.S. firms which have complied wtih the Arab boycott and an injunction against the dissemination of bid invitations or "tenders" containing restrictive trade or boycott provisions directed against U.S. firms trading with Israel. I shall ask unanimous consent to place a copy of this complaint and its accompanying exhibits in the RECORD. The exhibits include copies of:

First. A detailed pronouncement of the terms of the boycott against Israel by the Arab League;

Second. The nationally disseminated communication from the Commerce Department, mentioned above, including the Iraqi bid containing a boycott provision against Israel;

Third. Pertinent communications between the Commerce Department and Anti-Defamation League;

Fourth. Commerce Department regu-

lations requiring the reporting of all boycott requests:

Fifth. Commerce Department memorandums on policy concerning dissemination of boycott provisions contained in bids;

Sixth. A request for boycott compliances filed by the ADL under the Freedom of Information Act.

I include copies of articles from the New York Times and Washington Post describing the suit filed by the ADL and Chairman Moss' hearings.

Since the passage of the Export Administration Act, it has been the official policy of the United States to oppose restrictive trade practices and boycotts such as that sought to be imposed by the Arab League. Pursuant to this Act, the Department of Commerce adopted export control regulations requiring reporting of requests to participate in boycotts. The Commerce Dpartment seems to be in violation of the letter and spirit of the law and its own regulations by its actions. The Department protects violators of reporting regulations from public knowledge. What is it hiding? It refuses to strike boycott provisions and instead prints them at the taxpayers' expense. The suit by the Anti-Defamation League is an attempt to focus these actions into full public disclosure. I seek such disclosure and I hope all my colleagues will join me in this search. Sweeping allegations under the rug is not the way to combat applied prejudice.

Mr. President, I ask unanimous consent that the material to which I have referred be printed in the RECORD.

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

[75 Civ. Complaint]

U.S. DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Anti-Defamation League of B'Nai B'Rith, Plaintiff, against Hon. Rogers Morton, Secretary of Commerce, Defendant.

Plaintiff, Anti-Defamation League of B'nai B'rith (hereinafter "ADL"), as and for its complaint alleges as follows:

JURISDICTION

1. a. This action arises under the Constitution and laws of the United States.

b. The amount in controversy exclusive of interest and costs exceeds $10,000.

c. Jurisdiction is conferred on this Court by 5 U.S.C. 552 and 701 et seq., 28 U.S.C. 1331, 1361 and 2201 et seq., and 50 App. 2401 et seq.

THE PARTIES

2. ADL is a not-for-profit corporation organized and existing under the laws of the District of Columbia, with its principal place of business in the City, County and State of New York. It was founded in 1913, and soon thereafter became an official arm of B'nai B'rith, the oldest service organization of American Jews, to advance good will and mutual understanding among Americans of all creeds and races, and specifically to combat anti-Semitism and anti-Jewish activities in the United States. Among its many activities directed to these ends, the Anti-Defamation League has developed and implemented programs to protect the well-being and economic security of American citizens of the Jewish faith. Over the past 23 years ADL has been actively engaged, on behalf of Jews and others, in opposing the worldwide Arab campaign to boycott Israel and to discriminate against persons of the Jewish faith throughout the world.

3. Among ADL's membership and constituency are numerous American citizens engaged in domestic and international commerce who desire to trade with, sell and export to all nations friendly to the United States and to the citizens and business concerns of said nations. Many of said individuals trade with and otherwise support the State of Israel and by reason thereof are subjected to the boycott and restrictive trade practices of the League of Arab States (hereinafter "Arab League"), as is more fully set forth below.

4. Defendant Rogers Morton is Secretary of Commerce of the United States. As such, he is in charge of the Department of Commerce and has the responsibility to uphold, support and obey the laws and policies of the United States, including the provisions of the "Freedom of Information Act," 5 U.S.C. 552 and the "Export Administration Act," 50 App. 2401 et seq.

THE ARAB BOYCOTT

5. The Arab League since 1945, even before the creation of the State of Israel, has carried on a worldwide economic, military, political and psychological campaign aimed initially at preventing the advent of the State of Israel and since 1948 aimed at destroying that nation. The cornerstone of the Arab League's efforts aimed at the economic strangulation of Israel is the imposition of a worldwide boycott and system of restrictive trade practices directed against all—Americans, Jewish and non-Jewish—who trade with and/or otherwise support the Jewish state.

6. The Arab boycott regulations apply to all individuals and companies that trade with or otherwise support Israel, including "all companies which have assembly plants, main or branch factories in Israel; maintain either general agencies or main offices in Israel; grant the right of using their names or manufacturing licenses to Israeli companies; hold shares in Israeli companies or factories; render consultative services or technical experience to Israeli factories; are members, either themselves or through their directors or managers, of joint foreign-Israeli chambers of commerce; act as agents for Israeli companies or as principal importers of Israeli products outside of Israel; participate in prospecting for natural resources within Israel; decline to answer Arab authorities' questionnaires respecting the nature of their relations with Israel.

"If in maritime transportation, they call on Israeli ports; transport materials to Israel; are chartered by Israeli companies or institutions; transport commercial, industrial or agricultural Israeli products; transport Jewish immigrants to Israel.

"If in banking, they give loans or subsidies to Israel, whether public or private firms and institutions. If in movie and television, feature actors or actresses whose "Zionist tendencies" are established," and, as further set forth in the "Grounds and Regulations of the Arab Boycott of Israel" memorandum of the "General Union of Chambers of Commerce and Industry for Arab Countries" atttached hereto as Exhibit A.

7. As part of the Arab League's restrictive trade practices and boycott, any firm or individual on the blacklist of the Arab League is prohibited from doing business with or in any nation of the Arab world. Further, any firm or individual which itself does business with such blacklisted firm or individual is also barred from doing business with or in any Arab nation.

8. The restrictive trade practices and boycott of the Arab League practiced within the United States are so pervasive as to adversely affect thousands of firms and individuals in this country. Such practices necessarily are injurious to Americans of the Jewish faith, including the members and constituency of the plaintiff, who by reason of their faith and ancestry are associated with Israel and its cause.

ANTI-BOYCOTT LEGISLATION

9. Since in or about 1965 it has been the policy of the United States, as duly enacted by Congress, to oppose restrictive trade practices and boycotts such as that sought to be imposed by the Arab League. 50 App. 2401 et. seq. (Export Administration Act) provides:

2402(5) It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, (B) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States, and (C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

10. Pursuant to the Export Administration Act, the Department of Commerce adopted Export Control Regulations requiring that exporters receiving requests for "information, certification or other action indicating a restrictive trade practice or boycott against a foreign country" report same to the Department.

11. Upon information and belief, between 1970–74, reports filed with the Department of Commerce indicate that American companies would comply with Arab boycott requests in over 10,000 individual transactions. Further, in that period there were over 46,000 business transactions reported in which requests had been received for some form of anti-Jewish or anti-Israel economic activity. With respect to 36,000 transactions there is no available information concerning compliance with the boycott requests.

CLAIM FOR RELIEF

12. Upon information and belief, the Department of Commerce has received and continues to receive bid invitations or "tenders" from Arab League countries which contain restrictive provisions in the form of certificates of origin and otherwise, directed against persons and firms trading with or otherwise supporting Israel. A copy of one such bid invitation or "tender" is annexed hereto as Exhibit B. Said bid invitation or "tender" contains the following provision:

"13. *Certificate of Origin*

Tenderer must submit:

a) Certificate of origin specifying that the goods are not of Israeli Origin, not the Company having a branch in Israel and that they will not be shipped on Israeli or Black-listed Vessels. This Certificate must be legalized by the Iraqi or any Arab Consulate or representative and in case of their non-existance, legalization by Chamber of Commerce or industry in the Country of Origin or port of Shipment will suffice . . ." [sic]

13. The Department of Commerce, under the direction of defendant Morton, has and continues to distribute and disseminate said bid invitations or "tenders" to thousands of individuals and business concerns throughout the country, including competitors of ADL members or constituents, in contravention of the policy of the United States as declared in the Export Administration Act.

14. Said action on the part of the Department of Commerce promotes, supports, aids and abets the aforesaid anti-Jewish and anti-

Israel boycotts to the detriment of ADL members or constituents and others who trade with and otherwise support the State of Israel. They are placed at a competitive disadvantage by reason of the unlawful activities of the very Federal department charged with enforcing the provisions of the Export Administration Act, and by reason of such action of the Department of Commerce they are deprived, because of their religious beliefs or economic practices, of the equal protection of the laws under the Due Process Clause of the Fifth Amendment to the United States Constitution.

15. In a letter dated August 11, 1975 to Defendant Morton, ADL through its National Chairman, Seymour Graubard, protested cooperation and assistance provided by the Commerce Department in promoting, aiding and abetting Arab boycott operations against the State of Israel. As evidence of this charge, it enclosed with its letter a nationally disseminated communication from the Commerce Department's Office of Business Research and Analysis which had affixed to it a June 1975 communication from Iraq. The Iraqi document, a tender offer to purchase pre-cast housing, included as a term and condition a boycott provision against Israel. Said letter and attachment is annexed hereto as Exhibit C.

16. ADL received a letter, attention: National Chairman, from Charles W. Hostler, Deputy Assistant Secretary for International Commerce, dated August 22, 1975, responding to the letter to Defendant Morton. The letter, annexed hereto as Exhibit D, states that although the Administration "opposes the Arab boycott", it will continue to disseminate such tenders to American firms even if they include boycott or blacklist provisions. The future operational policy of the Department, according to the August 22 communication, will be to "stamp" a statement on tender documents directing the recipients attention to the restrictive clause and advising of U.S. policy opposing such provisions.

17. The Department of Commerce, under the direction of Defendant Morton, has failed and refused to cease distributing and disseminating said bid invitations or "tenders" containing restrictive trade and boycott provisions, even though the Department of State is reportedly "disturbed" by such dissemination, as more fully set forth in the memorandum entitled "Department Policy On Dissemination Of Trade Opportunities Containing References To Arab Boycott Requirements", a copy of which is annexed here as Exhibit E.

18. In a letter dated June 9, 1975, to the United States Department of Commerce, a copy of which is annexed hereto as Exhibit F, ADL requested access, pursuant to the Freedom of Information Act, 5 U.S.C. § 552, to all reports of "requests received for information, certification, or other actions indicating a restrictive trade practice against a foreign country" within the twenty-four month period from June 1, 1973 through June 1, 1975.

19. The Department of Commerce has improperly and illegally refused to comply with ADL's information request, by arbitrarily and capriciously declaring these materials to be confidential.

20. The Department of Commerce has admitted that it is withholding these documents in order to protect and avoid adverse publicity to those American firms succumbing to the Arab boycott, and upon information and belief, in order to conceal the effect of its promoting, aiding and abetting said boycott as aforesaid.

21. On May 21, 1975, the Department of Commerce issued a news release, a copy of which is annexed hereto as Exhibit G, declaring that it had formally charged certain domestic exporters with contravening the mandatory reporting requirement of the Export Administration Act and had warned other domestic exporters that they were in violation of said statutory provisions.

22. By letter dated May 27, 1975, a copy of which is annexed hereto as Exhibit H, ADL requested of the Department of Commerce that it be given access to said "charging and warning letters" pursuant to the Freedom of Information Act.

23. Department of Commerce improperly and illegally refused to comply with RDL's information request, by arbitrarily and capriciously declaring these documents to be confidential.

24. The Department of Commerce has admitted that it is withholding these documents in order to protect and avoid adverse publicity to those American firms who had contravened the mandatory reporting requirements of the Export Administration Act.

25. Defendant unless permanently enjoined will continue to distribute and disseminate bid invitations and tenders containing restrictive trade and boycott provisions as herein-above set forth.

26. Plaintiff has exhausted its administrative remedies under the Freedom of Information Act and has otherwise complied with all conditions precedent to the assertion of its claims under said Act.

27. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

Wherefore, plaintiff demands judgment;

1. Declaring it to be contrary to the law and the public policy of the United States for the Department of Commerce to distribute and disseminate bid invitations or "tenders" containing restrictive trade and boycott provisions directed against persons or firms trading with or otherwise supporting Israel and/or against nations friendly to the United States, including the State of Israel.

2. Enjoining and restraining Defendant Morton, the United States Department of Commerce, and their agents and employees from distributing and disseminating any and all bid invitations or "tenders" containing any restrictive trade or boycott provisions directed against persons or firms trading with or otherwise supporting Israel and/or against nations friendly to the United States, including the State of Israel.

3. Enjoining Defendant Morton from withholding the records and documents of the United States Department of Commerce requested by plaintiff as more particularly set forth in Exhibits F and H.

4. Directing defendant to produce said records and documents for inspection and copying by plaintiff, and

5. Granting such other and further relief as the Court may deem just and proper.

GENERAL UNION OF CHAMBERS OF COMMERCE, INDUSTRY AND AGRICULTURE FOR ARAB COUNTRIES,
Beirut, Lebanon.

THE ARAB BOYCOTT OF ISRAEL: ITS GROUNDS AND REGULATIONS

SIR, It has come to our knowledge that certain Israeli circles, with the aid of world Zionist organizations, are conducting a campaign of misrepresentation against the Arab economic boycott of Israel. Since the Arab States are anxious to maintain the most cordial economic relations with all countries, and since in choosing measures for the inforcement of the boycott against Israel, the Arab States have always been careful that no avoidable loss or damage be caused to their trade with other countries, we are sending you this letter which contains the main facts about the boycott in the hope that they will help to avoid any misunderstanding or loss.

1) The Arab boycott of Israel is a defensive measure:

You are probably aware that Israel has forcibly expelled one million Arabs from their homes in Palestine, that it has taken over the properties of these Arabs, and is preventing them from returning to their homes: that these refugees are mostly living in camps under conditions of appalling misery, on relief by the United Nations.

You are also probably aware that all this is being done in defiance of clear resolutions taken by the United Nations—resolutions which call on Israel to allow all refugees to return to their homes and recover their properties.

You must have heard of the raids which have been and are still being made by the regular Israeli forces against frontier Arab villages, with the consequent loss of innocent lives they have caused, and the aggressive war which it undertook in 1956 against Egypt, and which was denounced by sixty-five states in the United Nations General Assembly.

The Arabs are certain that the aggressive Zionist state of Israel is planning to expand further at the expense of Arab lands, and to turn more Arabs into refugees. This state even hopes to dominate economically wherever it finds itself unable to dominate politically. Recent events in the Middle East confirm this conviction.

The Arabs are determined to frustrate this plan of aggression. They are determined to defend themselves, their homes and their normal living. They are therefore doing no more than trying to deny Israel that economic power which might enable it to realize a new step in its attempt for the achievement of its distorted dream of domination.

2) The Arab boycott of Israel is not inspired by racial motives:

This boycott is directed against Israel, but not against the Jews. Indeed there are many Jewish citizens in most of the Arab States, who are unmolested and prosperous.

Jewish firms outside Israel receive from the Arabs the same treatment as non-Jewish firms. There is no discrimination. Any firm, irrespective of the creed or race of its owners, shareholders, or managers will be able to deal with Arab countries, so long as it does not breach the regulations of the Arab boycott of Israel.

3) The Arab boycott of Israel causes no loss or damage to other countries:

This must be obvious. The Arabs are important consumers, for they are rich in purchasing power derived from oil revenues and other sources, whereas their productive capacity is relatively small. Whatever they do not import from Israel they have to import from other countries. When Israel tries to induce other countries to help in breaking the Arab boycott, it simply aims to acquire for itself these Arab markets which had so far been open to others. Remember, therefore, that Israel is the only loser and that it can recover this loss only at your expense.

However, if no loss is caused to any country, loss may well be caused to individual firms. This can happen only when such firms cause themselves to be blacklisted by breaching the regulations of the Arab boycott; but such loss is easily avoidable. The rules themselves are reasonable, and besides, the Arab markets are immensely bigger, and they have immeasurably greater prospects than those of Israel. Israel, despite all the publicity offers very few opportunities for lucrative business.

4) The rules and regulations of the Arab boycott are reasonable and clear:

Considering the above, it may be asked what are the rules and regulations of the Arab economic boycott? Generally, the boycott regulations, which are non-restrictive to the freedom of international trade by their very nature, do not apply to companies which have normal dealings with Israel involving the sale of completely manufactured goods—of wholly non-Israeli manufacture—in Israel. However, these regulations do apply to all companies, irrespective of their nationality, which engage themselves in the following practices:

I) Manufacturing and trading companies:

A) If they have main or branch factories in Israel.

B) If they have assembly plants in Israel. This also applies to foreign firms and companies whose agents assemble their products in Israel.

The ban will be applied too in the case of assembly if it is proved that a certain Israeli company has assembled, on a commercial scale, a unit of a certain product or goods from parts the majority of which is produced by a certain foreign company or any of its branches/subsidiaries, unless such foreign company establishes its non-responsibility for such assembly, and takes legal proceedings against the Israeli company which committed the assembly. This provision is applied if the parts used in producing the unit constitute more than 50% of the parts of such unit, or if the engine of the unit is of the foreign company's production.

C) If they maintain in Israel either general agencies or main offices for their Middle East companies.

D) If they give the right of using their names or manufacturing licences to Israeli companies.

E) If they hold shares in Israeli companies or factories.

F) If they render consultative services and technical experience to Israeli factories.

G) If they, or their directors or managers, are members of joint foreign-Israeli chambers of commerce.

H) If they act as agents for Israeli companies or principal importers of Israeli products, outside Israel.

I) If they take part in prospecting for natural resources within Israel such as petroleum drilling.

J) If they decline to answer the questionnaire addressed by Arab authorities requesting them to provide explanation of the nature of their relations with Israel in order to determine whether they constitute a violation or not.

K) If, after serving notice on them and granting them a grace period of not less than six months, during which to substitute the products of blacklisted companies with products of other companies which are not violating the Boycott principles, they use in their own products articles or machines produced by a blacklisted company. During the period of notice, the products of such companies may be allowed entry provided that their position is clear in regard to other Boycott regulations, and that parts produced by the blacklisted company and used in the company's products do not exceed 35% of the total cost of the finished unit.

The ban imposed on a certain company is applied against all of its parent and subsidiary companies. It is permissible, however, to waive, for once only, the ban imposed on a blacklisted company if it arranges to redress the violation of rules enforced in the Arab countries and presents documentation to this effect.

II) Foreign navigation companies:

A) Foreign ships, tankers and other maritime transportation means shall be blacklisted if they engaged in any of the following acts:

1) If it was proven that they called on an Arab port and an Israeli port in the same round trip; universal tourist ships being excluded.

Tourist ships' denotes those ships which carry tourists only, and not ordinary passengers, and which do not load or offload goods from and to the countries they call on. Companies which own or charter these ships shall inform the competent Regional Boycott Office of the routes and timetables of those ships in due course.

2) If they transport materials or articles helpful to the war effort of Israel even if they do not call on an Arab port and an Israeli port on the same round trip.

3) If they are chartered to Israeli companies or institutions.

4) If they transport industrial, commercial or agricultural Israeli products.

5) If they transport Jewish immigrants to Israel.

6) If they refrain, within a maximum period of 15 days notice, from presenting the manifests of shipments they offloaded at Israeli ports on a previous trip.

B) A ship or tanker may be lifted from the blacklist if its owners undertake to refrain from violation; the above rules again. This is not applicable to ships flying the Israeli flag or previously enjoying the Israeli nationality.

C) Transactions shall be banned with any foreign navigation company if it is established that such a company has chartered any ship or tanker owned or chartered by it to an Israeli firm, company or institution with the intention of creating an international crisis involving any Arab country. This ban entails the blacklisting of all vessels owned, or chartered by such company.

III) Foreign banks dealing with Israel:

Transactions with foreign banks are banned if they commit any of the following acts:

A) If they give loans or subsidies to Israeli public or private firms and/or institutions which may help them in carrying out major military, industrial or agricultural projects.

B) If they take active part in distributing and/or promoting Israeli loan bonds.

C) If they establish firms or companies in Israel.

D) If they subscribe to the establishment of firms or companies of Israeli capitals, either inside or outside Israel.

IV) Foreign motion pictures' companies and actors:

A) Movie and television films:

The projection of foreign films in whatever copy or language is prohibited in all Arab countries in the following cases:

1) If the film, in story, script and content, is intended to distort Arab past or present history in regard to religion or nationality.

2) If the film, in story, script and content, is intended to promote Israeli or Zionist propaganda aims.

3) If the film is featuring actors enjoying Israeli nationality.

4) If the film is wholly or partially photographed in Israel or if it is of Israeli-foreign production.

5) If the film features foreign actors or actresses whose Zionist tendencies are established.

B) Foreign motion pictures' and television companies:

Transactions shall be banned with motion pictures and television companies the Zionist tendencies of which or their acting for the interests of Israel are proven. This provision is applicable in the following cases:

1) If they, in spite of communicating with them in order to make them aware of the measures their actions entail, again produce films intended in story, script and content to distort past or present Arab history in regard to religion or nationality.

2) If they, in spite of communicating with them in order to make them aware of the measures their actions entail, repeat their donations to Israel, in their capacity as artificial persons, in a way indicating their bias and acting for the interests of Israel.

3) If they, in spite of communicating with them in order to make them aware of the measures their actions entail, again produce films intended in story, script and content to make propaganda for Israel.

4) If they, in spite of communicating with them in order to make them aware of the measures their actions entail, again produce joint foreign-Israeli films and refuse, without reasonable motives, the production of joint foreign-Arab films of a similar character.

5) If they establish in partnership with Israeli capital or subscribe with Israeli capital to the establishment of firms or companies inside or outside Israel; if they establish manufacturing branches in Israel; or if they render consultative services and technical assistance to Israeli firms or companies.

(V) Foreign insurance companies:

Transactions shall be banned with foreign insurance companies the subscription of which in industrial, commercial or other firms and companies in Israel is proven, and as a result of which they exceed their normal activities.

(VI) Foreign agencies of Arab companies:

Firms and companies enjoying the nationality of any Arab country may not give their general agencies to foreign aviation and shipping companies or firms if it is proven that the latter are general agents of Israeli firms or companies abroad. This provision is applied in case the local laws of the country concerned do not prohibit such actions.

(VII) Foreign shipbuilding companies:

Transactions shall be banned with foreign shipbuilding companies which, after communicating with them in order to make them aware of the fact that building ships for Israel by them promotes the economy and the war effort of Israel, again build ships or tankers for Israel.

* * * * *

While presenting to you these facts and regulations, it gives us great pleasure to assure you of our best attention and cooperation, and our express willingness to answer any questions which you may have regarding the Arab economic boycott of Israel.

Faithfully yours,

ABDUL AZIZ H. AL SAGER,
President.

SAMAWAH CEMENT PUBLIC CO.,
Samawah, Iraq.

GENERAL TERMS AND CONDITIONS

1) Technical Specifications:

The tender documents submitted by the Tenderer shall include the following:—

a—Full description and detailed specification of offered goods.

b—Other pertaining information such as Catalogues, pamphlets Analysis, Samples if requested, Standards etc.

2) Weights & prices:

Tenders should be itemized as far as possible giving nett and gross weights. Itemized FOB prices should be given.

Estimated freight charges and total C&F prices to Basrah and Baghdad should also be stated.

Currency should be of that of Country of Origin of goods.

Type of packing: Suitable for export, details should clearly be stated.

3) Validity:

The validity period of the tender submitted should be not less than 3 month from closing date of submission of tender, confirming firm rate.

4) Terms of payment: Insurance & Letter of Credit

Both letters of Credit & Insurance shall be effected by Samawah Cement Public Company.

5) Neutral Tests:

Offers are to include an acceptance statement to the effect that Samawah Cement Public Company, may appoint a competent Neutral party at its expense to inspect material on order and issue relevant test certificate to the effect that the material being shipped conform in all respects with the agreed upon specifications. Bankers effected payment will only do so upon receiving a copy of such certificate which have been approved by Samawah Cement Public Company.

6) A complete set of documents issued with

each tender may be Purchased by any person desiring to participate in the confidential tender, against payment of an amount fixed by the Company for each tender.

This amount is not refundable under any circumstances.

7) The closing date of submission of tender will be not latter than closing office hours on 31/3/75

Tenders received after this time and date shall not be accepted.

8) The Company does not bind itself to accept the lowest tender.

9) Tenders not complying with our specifications and terms shall be neglected.

10) Tenders should be submitted in six copies.

11) Tenders are to be submitted in sealed envelopes, clearly indicating subject of tender. Samples if required should be sent under separate cover marked clearly with the reference number and subject of tender.

12) Tenders are to be accompanied by a preliminary bank deposit in favour of and payable to the Samawah Cement Public Company for the sum of 5% of the FOB value of offer as a guarantee of good faith.

The deposit will be returned to unsuccessful. Tenderer after 6 Calendar months from closing date of tender.

13) *Certificate of Origin*

Tenderer must submit:

a) Certificate of origin specifying that the goods are not of Israeli Origin not the Company having a branch in Israel and that they will not be shipped on Israeli or Black listed Vessels. This Certificate must be legalized by the Iraqi or any Arab Consulate or representative and in case of their non-existence, legalization by Chamber of Commerce or Industry in the Country of Origin or port of Shipment will suffice.

b) Country of origin and port of shipment of goods.

c) Delivery period.

Notes: on acceptance of an offer, Samawah Cement Public Company will require the following:—

a) Bank Guarantee.

Such a guarantee is requested by Samawah Cement Public Company its amount will not exceed 5 percent of FOB value of offer and should be valid six months after the date of last shipment.

b) Proforma Invoice

Confirmation of order is to be accompanied with 10 copies of proforma Invoice.

c) Validity of L/C

Due to the regulations of the Central Bank of Iraq, L/C can not be opened for more than a period of 5 months, however in case of the delivery period being greater than eight months the L/C will be extendable prior to expiry date to cover the full period delivery time.

d) Shipping Marks

Shipping marks to be mentioned on shipping documents as follows: Samawah Cement Public Company, Samawah Works, Order No.

a) If the Tenderer fail to deliver the material in accordance with the conditions, The Samawah Cement Public Company shall cash the bank guarantee submitted by the Tenderer.

AUGUST 11, 1975.

Hon. ROGERS MORTON,
Secretary, Department of Commerce,
Washington, D.C.

DEAR SIR: This letter is to protest the cooperation and assistance of your Department in the Arab boycott operations against the State of Israel.

Enclosed is a xerox of a nationally disseminated letter from the Department's Office of Business Research and Analysis to which the Department attached a June 1973 communication from Iraq. You will note that the Iraqi communication is a tender to purchase 3,550 pre-cast (prefabricated) buildings, the terms and conditions of which include a boycott provision against Israel. Paragraph No. 13 reads as follows:

"Country of Origin: The tenderer should not incorporate (sic) this tender any material that has been manufactured in Israel or *by companies boycotted officially by Iraqi Government.*" (Emphasis ours)

When the matter came to our attention, we telephoned the Commerce Department desk which circulated this national mailing. Mr. Charles Pitcher, the writer of the circular letter, advised us that it is routine practice to disseminate such tenders as they arrive from foreign lands. In some cases, we were told, the Commerce Department "writes them up"; in other cases, the distribution is arranged by computer. We were informed, too, that these tenders are received by Commerce from the U.S. State Department. The letter itself states that Commerce received the tender from a "U.S. Foreign Service Post".

With the foregoing in hand, we assigned one of our representatives to visit your Department of Domestic and International Business-Trade Operation Office, and examine tenders that have been distributed by it from about June 1974 to the present. Our search only spot-checked tenders from Iraq, Saudi Arabia, Libya, Syria, Qatar, Egypt, Lebanon, Jordan and The United Arab Emirates. We found at least one other instance in which your Department distributed a tender containing Arab boycott provisions. In the Department's Iraqi folder, there is a bid received March 4, 1975 inviting tenders for a supply of industrial locomotives for the Samawah Cement Public Company, P.O. Box 5, Samawah, Iraq. Attached to the standard telegraphed form from the Trade Opportunities Officer, is a listing of "General Terms and Conditions." It states in Section 13: (titled Certificate of Origin)

"Tenderer must submit certificate of origin specifying that the goods are not of Israeli origin, not the company having a branch in Israel, and that they will not be shipped on Israeli or blacklisted vessels. This certificate must be legalized by the Iraqi or any Arab consulate or representative and in the case of their non-existence, legalization by Chamber of Commerce or Industry in the Country of Origin or port of shipment will suffice."

In addition to this latter instance, our search at the Department turned up other questionable informational requirements in tenders circulated by Commerce; questionable, because if complied with, these provisions would enable the Arab country to take the next step of rejecting bids that violate their boycott rules. For example:

1. Egypt: bidders must submit offers through Egyptian commercial companies or through an Egyptian agent (which may limit freedom of trade by having to go through such contacts).

2. Qatar: in a bid for tenders received September 24, 1974 re Communication Pipes, "Tenders should include product's country of origin and name of producers . . ."

3. Libya: bid for tenders received August 16, 1974, requires bidding through Libyan agent. Further, this bid request for x-ray diagnostic units for eight Libyan hospitals states "Restricted Tender Board can reject any tender without explanation."

Because your Department advised us, as indicated above, that the tenders it disseminates are received from the U.S. State Department, we communicated with that office. There, we talked by telephone with Nicholas Lakas, the Director of the Office of Commercial Affairs, who promised to look into the matter. Because the subject is so important, we are writing to you, copy to the U.S. Secretary of State, pending the results of his inquiry.

It is ironic that your Department distributes warnings to American companies to remind them that the provisions of the Export Administration Act require a report to the Department of any request for boycott compliance—while your Department itself is disseminating proposed purchases which include such requests for Arab boycott. We wonder how many companies receiving these mailings have reported, as required under the Act, that the Commerce Department itself is guilty of violating the publicly announced policy of our government.

We ask that the Commerce Department comply with American public policy as set forth in the Export Administration Act, which opposes submission to boycott demands of friendly countries by other foreign powers.

Very truly yours,

SEYMOUR GRAUBARD,
National Chairman.

SAMAWAH CEMENT PUBLIC CO.
Samawah, Iraq.

TENDER NO. 4/SW/75 FOR SUPPLY OF 2 NO. LOCOMOTIVE

Specification

6 Cylinder 4 stock Diesel Engine Water Cooling.
130–150 HP Max 1500 R.P.M.
Max Speed 40 KM/Hr. Power transmission.
3 change speed, propeler shaft drive.
1 meter gauge
Air Brake & Hand Brake
24 Volt.

U.S. DEPARTMENT OF COMMERCE,
DOMESTIC AND INTERNATIONAL
BUSINESS ADMINISTRATION,
Washington, D.C.

GENTLEMEN: The following trade opportunities have been submitted to the Department of Commerce by U.S. Foreign Service Posts overseas.

If you are interested in any of these opportunities, please contact directly the person listed on the enclosed telegrams.

Sincerely,

CHARLES B. PITCHER,
Construction and Building Materials Program, Office of Business Research and Analysis.

MINISTRY OF INDUSTRY AND METALS, STATE ORGANIZATION FOR ENGINEERING INDUSTRIES, HOUSING SCHEMES COMMITTEE

TENDER NO. 6/75: 3550 PRECAST HOUSES

General terms and conditions

1. Offers should be based on C&F site or Baghdad taking into consideration that insurance to be effected locally at the supplier's cost.

2. Full specifications, type and make of the material offered should be given as well as country of origin.

3. Materials supplied by the tenderer should comply with the agreed upon specifications and conditions as in concluded contract.

4. Offers in three copies to be submitted in sealed envelope and addressed to State Organization for Engineering Industries with the name and number of the tender written clearly on the envelope.

5. Offers should be submitted to above latests 12.00 hours of the closing date of the tender and any offer received after that date will be neglected.

6. If tenders sent by post, they should be registered but the tenderer must make sure that offers are delivered to the said office within the limited time.

7. The tenderer must submit a preliminary deposit with the tender as a security of his financial standing and as a guarantee to perform his obligations under the contract conditions in a form of bank guarantee issued by ——— Bank, amount of which should not be less than 5% of the total value of the tender and it should be valid for two months after the closing date.

8. In case of the successful tenderer, the bank guarantee will be retained until the tender has been definitely accepted. Thereafter deposits shall be returned to the unsuccessful tenderers.

9. After the reward of the tender to the successful tenderer, the above bank guarantee will be released and replaced by a performance Bank Guarantee amounting to 5% of the contract tender for a period ending with one month after the Final Acceptance Certificate date.

10. The contractor will be responsible of the maintenance of the houses and all other utilities for one calendar year effective the date of the Final Acceptance Certificate and for that purpose a bank guarantee of 5% of the contract value should be submitted from that date until the end of the maintenance period.

11. Payment: Payment shall be effected by establishing a letter of credit in the name of the supplier to the value of 100% of the total tender value payable in installments related with the progress of the shipping and erection progress.

12. Penalty: If the tenderer fails to deliver the material in accordance with conditions agreed upon the SOEI shall cash the Bank Guarantee submitted by him and shall deduct the amount that shall be calculated on the basis of damage caused to this Organization as a result of unsatisfactory quality.

13. Country of Origin: The tenderer should not incorporate this tender any material that has been manufactured in Israel or by companies boycotted officially by Iraqi Government.

14. Validity: Offers should be firm and valid for 60 days after the closing date of the tender.

15. If the tenderer withdraws his tender before the expiry date of 60 days period, his provisional deposit will be forfeited to SOEI.

16. The SOEI does not bind itself to accept the lowest offers or any other offer and without being liable to assign any reason thereof.

Technical specifications

1. Scope of the tender: 3550 houses precast concrete to be established in the following areas:

1300 houses in Baghdad located as follows:
700 houses in Waziriyah.
500 houses in Abu Ghraib.
100 houses in Al-Taji.
1000 houses in Iskandariyah.
400 houses in Diyala.
100 houses in Kut.
150 houses in Nassiriyah.
600 houses in Basrah.

2. Precasted concrete buildings are preferred to precasted concrete houses.

3. In case of buildings, they will be of three floors only with 36–48 apartments in each building.

4. Individual houses to be of about 80 square meters each with a garden of 70 square meters, suitable for five persons to live in and consists of: 2 bedrooms, 1 living room, 1 hall, 1 kitchen, 1 bathroom with shower, and 1 W.C. oriental type to be separated from the bathroom.

5. In case of individual houses, the roof will be level to enable inhabitants to use it as a sleeping place in summer nights and there should be inside staircase for this purpose.

6. Each house in Basrah area should be equipped with airconditioning unit and in case of buildings, the building should be centrally airconditioned. As for house/buildings in other areas, they should be equipped with ducting system for desert coolers.

7. Each house should be equipped with oil heater for hot water.

8. All rooms should be equipped with electrical points for ceiling fans.

9. Offers should include all utilities for housing schemes in each group of houses, i.e. primary school, market, social center, medical centre, etc.

10. Any other suitable alternative will be taken into consideration.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., August 22, 1975.

Mr. SEYMOUR GRAUBARD,
National Chairman,
Anti-Defamation League of B'nai B'rith,
Washington, D.C.

DEAR MR. GRAUBARD: This is in response to your letter of August 11, 1975, to Secretary Morton in which you advise that it has come to your attention that this Department recently disseminated to interested American firms a bid tender for the purchase of precast buildings by the Government of Iraq which contained a provision excluding the use of materials of Israeli origin or materials manufactured by firms boycotted by the Government of Iraq.

We were quite disturbed to learn that, contrary to longstanding Departmental policy, copies of this tender and other trade opportunity documents were disseminated without attaching thereto a statement of United States policy opposing such restrictive trade practices and requesting the American firms concerned not to comply with them. Secretary Morton appreciates your bringing this matter to his personal attention. In order to avoid this occurring again, we have instructed appropriate officials in the Domestic and International Business Administration that henceforth a statement should be stamped on any documents containing such restrictive trade clauses which are disseminated by this Department. Such statement will direct the reader's attention to the particular restrictive clause and advise him of U.S. policy in opposition thereto.

Although the issue of discrimination because of race, color, religion, sex or national origin does not arise in the case you have cited and, in fact, very seldom arises in connection with an Arab boycott request, I want to assure you that tenders and other trade opportunity documents which would have the effect of discriminating against certain U.S. citizens on such grounds will not be, and to our knowledge have not been, disseminated by the Department of Commerce.

This Administration is fundamentally opposed to the premises upon which the Arab boycott is based and the Department of Commerce has made every effort to acquaint the business community with the declaration of United States policy currently contained in Section 3(5) of the Export Administration Act. The Department form on which exporters report receiving Arab boycott requests includes a statement of that policy, prominently displayed at the top of the form. Reprints of this form and of the pertinent provisions of the Export Administration Regulations were recently mailed to approximately 30,500 U.S. firms which are listed in the American International Traders' Index. A copy of this document is enclosed for your information. In addition, the Department has issued several press releases over the past few months concerning our policy toward the Arab boycott and actions taken to enforce our reporting requirements.

We do not believe that any useful purpose would be served if the Department of Commerce refused to disseminate bid invitations subject to restrictive clauses, thereby denying U.S. firms prompt access to business opportunities in the Arab markets which they are lawfully permitted to pursue. Our firms might to some extent compensate for loss of this source of information by attempting to obtain the opportunities directly from Arab sources or through private trade channels. Forcing them to do so, however, would put them at a competitive disadvantage with foreign competitors having prompt access to such opportunities through their own governments. The approach which we have chosen to use in handling these trade opportunity documents affords us the means of reminding American firms of the U.S. policy of opposition to such restrictive trade practices, before such firms have decided in the exercise of their business judgment, whether or not to comply with the particular Arab boycott request.

In conclusion, a refusal by the Department to disseminate such opportunities could have an adverse impact on our balance-of-trade, and increase unemployment in the United States without having any impact on the worldwide application by the Arab countries of their boycott against firms engaging in extensive commercial relations with the State of Israel. We firmly believe that the only means of ending this boycott rests in the successful settlement of the Middle East conflict and the issues underlying it. It am sure that you share our hope that such a settlement will be achieved in the very near future.

Sincerely,

ROBERT C. SHAW,
For Charles W. Hostler, Deputy Assistant Secretary for International Commerce.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C.

BOYCOTTS OR OTHER RESTRICTIVE TRADE PRACTICES IMPOSED BY FOREIGN COUNTRIES

NOTICE TO EXPORTERS

There is reason to believe that a number of firms, perhaps through lack of knowledge or misunderstanding, may not be complying with the Department of Commerce regulations regarding the reporting of requests for information or action in support of certain foreign restrictive trade practices or boycotts.

The Department's regulations are reprinted in this pamphlet. I urge that you review the provisions of this regulation. If you receive any such requests that are reportable, you are required by law to report them. Failure to report subjects you to the penalties prescribed in Section (6) of the Export Administration Act of 1969, as amended.

RAUER H. MEYER,
Director, Office of Export Administration.

[Reprinted from Export Administration Regulations, June 1, 1974]

§ 369.1: GENERAL POLICY

It is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against any country not included in Country Group S, W, Y, or Z.[1] All exporters engaged in the export from the United States of articles, materials, supplies, or information, including technical data (whether directly or through distributors, dealers, or agents), are encouraged and requested to refuse to take (but are not legally prohibited from taking) any action, including the furnishing of information or the signing of agreements, that has the effect of furthering or supporting such restrictive trade practices or boycotts.

§ 369.2: REPORTING REQUIREMENT

(a) *Scope*

In order to implement the policy set forth in §369.1 above, a reporting requirement is established. The provisions of this § 369.2 apply to any U.S. exporter who receives a request for an action, including the furnishing of information or the signing of agreements, that has the effect of furthering or supporting a restrictive trade practice or boycott fostered by any foreign country against any country not included in Country Group S, W, Y, or Z. (See § 369.3 for examples of restrictive trade practices or

[1] Country Groups appear on page 3.

boycotts.) Where such request is received by any other person handling any phase of the transaction for the exporter, that person (forwarding agent, etc.) is responsible for informing the exporter of the request so that the latter may report it.

(b) *Report from U.S. exporter* [2]

Any U.S. exporter who receives a request, or is informed of a request, relating to a restrictive trade practice or boycott, as described in paragraph (a) above, shall report the request to the Office of Export Administration (Room 1617M), U.S. Department of Commerce, Washington, D.C. 20230. The exporter's report may be submitted in accordance with the procedure set forth in either paragraph (1) or (2) below. (The information contained in these reports is subject to the provisions of Section 7(c) of the Export Administration Act regarding confidentiality of information.)

(1) Single transaction report. If the report covers only a single transaction it shall be submitted to the Office of Export Administration within fifteen business days from the date the exporter receives the request. This report shall be made on U.S. Exporter's Report of Request Received for Information, Certification, or Other Action Indicating a Restrictive Trade Practice or Boycott Against a Foreign Country, Form DIB–621 or IA–1014 [3] (see back page for facsimile of form). If the request is for information and is received in the form of a questionnaire, a copy of this questionnaire shall accompany the report. Copies of requests received in other forms need not be submitted with the report, but appropriate quotations from the request shall be included in the report. Whenever an exporter receives more than one request for action with reference to the same export transaction, only the first request need be reported.

(2) Multiple transactions report. Instead of submitting a report for each transaction regarding which a request is received, the exporter may submit a report covering all transactions regarding which requests are received from persons or firms in a single country during a single calendar quarter. This report shall be made by letter to the Office of Export Administration no later than the fifteenth day of the first month following the calendar quarter covered by the report. If the exporter has received requests from persons or firms of more than one foreign country, a separate report shall be submitted for each country. Each letter shall include the following information:

(i) Name and address of U.S. exporter submitting report;

(ii) Calendar quarter covered by report;

(iii) Name of country(ies) against which the request is directed;

(iv) Country of requester;

(v) Number of transactions to which restrictions were applicable;

(vi) Type(s) of request(s) received. (If questionnaire, attach copy. If other than questionnaire, give the type of document or other form of request and the specific information or action requested.);

(vii) General description of the types of commodities or technical data covered and the total dollar value thereof; and

(viii) Whether or not the U.S. exporter intends to comply with the request(s). (Submission of the information required by this § 369.2(b)(2)(viii) would be helpful to the U.S. Government but is not mandatory.)

§ 369.3 EXAMPLES OF REQUESTS RELATED TO RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

A request which promotes or upholds a restrictive trade practice or boycott may be received by U.S. exporters in the form of general questionnaires to be answered, specific statements or certifications to be supplied in particular transactions, or other types of requests for action. Shown below are examples of requests that could indicate the furthering or supporting of restrictive trade practices or boycotts. This is not to be interpreted as being a comprehensive list.

(a) A request for information as to whether the U.S. exporter or any subsidiary or affiliate of the U.S. exporter has, or intends to have, any stockholders, owners, employees, or officers who are nationals of a boycotted country.

(b) A request for information as to whether the U.S. exporter or any subsidiary or affiliate of the U.S. exporter has, or intends to have, any stockholders, owners, employees, or officers who are members of a religious organization or of a race, creed or color generally associated with a boycotted country.

(c) A request for information as to whether the U.S. exporter or any subsidiary or affiliate of the U.S. exporter has, or intends to have, any business relationship with a boycotted country or a national of a boycotted country. These business relationships include, but are not limited to, trade in commodities or technical know-how, licensing arrangements, advertising or promotion of sale of goods originating in a boycotted country, or use of such goods as components in a manufacturing process.

(d) A request for information as to whether the U.S. exporter or any subsidiary or affiliate of the U.S. exporter does any business, or intends to do any business, with any firm that has a business relationship with a boycotted country or a national of a boycotted country.

(e) A request for information as to whether the U.S. exporter or any subsidiary or affiliate of the U.S. exporter has any investments, including branches, subsidiaries, affiliates, or holdings, or any commercial or legal representation in a boycotted country, or a business firm located in, or doing business in, a boycotted country.

(f) A restriction prohibiting the U.S. exporter or any subsidiary or affiliate of the U.S. exporter from using shipping or transportation facilities that are "blacklisted" by the importing country. (However, a request or restriction solely precluding the export of commodities to the importing country on (1) shipping or transportation facilities owned, controlled, operated, or chartered by a country or a national of a country friendly to the United States but not friendly to the importing country, or (2) a carrier that stops at a port in a country friendly to the United States but not friendly to the importing country prior to stopping at the port of unlading, is not deemed a restrictive practice within the meaning of Section 2(4) of the Export Administration Act, but rather a precautionary measure to avoid any risk of confiscation of the commodities. Accordingly, these two types of shipping restrictions are exempted from the reporting requirement of this section.)

§ 369.4 EFFECT OF OTHER PROVISIONS

Insofar as consistent with the provisions of this Part, all of the provisions of the Export Administration Regulations, including Parts 387 and 388, apply equally to the reporting requirement set forth in § 369.2 above. Attention is called particularly to the provisions of § 387.11 under which pertinent records must be kept and made available for inspection for a two-year period.

For export control purposes all foreign destinations (excluding Canada) are divided into seven country groups:

Group S—Southern Rhodesia.

Group T—All countries of the Western Hemisphere (excluding Canada and Cuba).

Group V—All countries not elsewhere listed (excluding Canada).

Group Q—Romania.

Group W—Poland.

Group Y—Albania, Bulgaria, Czechoslovakia, East Germany (German Democratic Republic and Soviet section of Berlin), Estonia, Hungary, Latvia, Lithuania, Outer Mongolia, the People's Republic of China, and the U.S.S.R.

Group Z—North Korea, Communist-controlled areas of Vietnam, and Cuba.

[Form DIB–621, (Rev. 4–73), U.S. Department of Commerce, Domestic and International Business Administration, Bureau of East-West Trade, Office of Export Control, Washington, D.C.]

U.S. EXPORTER'S REPORT OF REQUEST RECEIVED FOR INFORMATION, CERTIFICATION, OR OTHER ACTION INDICATING A RESTRICTIVE TRADE PRACTICE OR BOYCOTT AGAINST A FOREIGN COUNTRY

A. Important. It is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States. All U.S. exporters of articles, materials, supplies or information are encouraged and requested to refuse to take, but are not legally prohibited from taking any action, including the furnishing of information or the signing of agreements, that has the effect of furthering or supporting such restrictive trade practices or boycotts.

Accordingly, I encourage and request individuals and firms receiving such requests to refuse to comply with them.

Secretary of Commerce.

B. Instructions: This form must be completed by a U.S. exporter whenever he is requested to take any action, including the furnishing of information or the signing of an agreement, which is designed to support a restrictive trade practice or boycott fostered or imposed by a foreign country against any other country not included in Country Group S, W, Y, or Z. (Country Groups are listed in Supplement No. I to Part 370 of the U.S. Department of Commerce Export Control Regulations.) Submission of this form is mandatory (50 USC App. 2403(b). Failure to comply subjects the U.S. exporter to the penalties prescribed in Section (6) of the Export Administration Act of 1969, as amended. It must be submitted to the U.S. Department of Commerce, Domestic and International Business Administration, Bureau of East-West Trade, Office of Export Control, Washington, D.C. 20230, within fifteen business days from the date of receipt of such a request. Whenever a person receives more than one request for action with reference to the same transaction, only the first request need be reported to the Office of Export Control (See Part 369 of the Export Control Regulations).

C. Confidential. Information furnished herewith is deemed confidential and will not be published or disclosed except as specified in Section 7(c) of the Export Administration Act of 1969 (50 USC App. 2406(c)).

1. Name and Address of U.S. Exporter submitting this report:
Name:
Address:
City, State, and Zip Code:

2. Exporter's Reference No. (if any):

3. Name of Country/ies against which the request is directed:

4. Date request was received by me/us:

5. I/We received this request from:
Name:
Address:
City and Country:

6. Specify type of request received. (If any Item in 6b is checked, complete Item 7)

a. Questionnaire (*Attach copy*)—

b. Other type of request for information or action contained in:

Trade Opportunity; Bid Specification; Purchase Order; Certificate of Origin; Certificate of Manufacture; Letter of Credit; Consular Invoice; Other (*Specify*).

7. If Item 6b above is checked, give the

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[2] See § 370.2 for definition of U.S. Exporter.

[3] Copies of Form DIB–621 may be obtained at all U.S. Department of Commerce District Offices and from the Office of Export Administration (Room 1617M), U.S. Department of Commerce, Washington, D.C. 20230.

specific information or action requested. (Use direct quotations from the request.)

8. If the request relates to a specific transaction, describe the commodities or technical data involved. (The description of the commodity or technical data may conform to the description on the order or to usual commercial terminology, and may but need not be in terms of the Commodity Control List or Schedule B.)

Quantity; Description; Value.

9. Additional Remarks:

10. Action: (Completion of the information in this Item would be helpful to the U.S. Government but is not mandatory.)

a. I/We have not complied and will not comply with the request for information or action described above.

b. I/We have complied with, or will comply with, the request for information or action described above.

c. I/We have not decided whether I/we shall comply with the request for information or action described above and I/we will inform the Office of Export Control of my/our decision.

11. I certify that all statements and information contained in this report are true and correct to the best of my knowledge and belief.

(Signature of Person Completing Report.)

(Name and Title of Person whose Signature Appears on the Line to the Left.)

EXHIBIT E

AUGUST 11, 1975.

Memorandum for: Richard E. Hull, Assistant General Counsel/DIBA.

From: Peter B. Hale, Director, Commerce Action Group for the Near East/CAGNE.

Subject: Department Policy on Dissemination of Trade Opportunities Containing References to Arab Boycott Requirements.

A question has arisen as to the appropriateness (and legality) of the U.S. Government disseminating to U.S. firms bid invitations from Arab countries which contain references to the Arab boycott of Israel.

The issue of Commerce dissemination of trade opportunities and bid specifications containing boycott references considerably pre-dates passage of the anti-boycott amendment to the Export Control Act in 1965. In 1961, Commerce and State arrived at a common position on the issue, but State's Congressional Relations people killed it before it went into effect out of concern that it might endanger passage of the trade bill. The key elements of that position were:

1. Posts would continue to forward to Commerce trade opportunities or bid invitations containing boycott references, but the boycott reference would be specifically flagged in the transmission.

2. Commerce would publish such opportunities in International Commerce, but with no reference at this point to the boycott requirement. It was not deemed proper to deny U.S. exporters access to trade opportunities merely because they had such a clause.

When U.S. firms asked for bid specifications or other information as the result of publication of the opportunity, Commerce would supply the complete information, including the boycott reference. Again, the rationale was that we would not properly serve the interests of U.S. business by denying it the complete conditions of the bid invitation.

3. Posts would be instructed to return to the originator any invitation containing any wording implying racial or religious discrimination with the message that such invitations would not be accepted by the post and would not be publicized by the Department of Commerce.

The issue was raised again in January, 1964. Commerce proposed the same procedure, but also proposed to attach a brief statement of U.S. policy on the boycott to each set of specifications having boycott clauses sent to U.S. firms. State at that time was opposed to attaching the statement.

Apparently the issue was finally resolved shortly after passage of the anti-boycott amendment in 1965. Letters from the Director, Near East-South Asia Division, to Cairo and Beirut in December 1965 stated the above procedure as being in effect (but without the requirement that Embassies flag boycott clauses). Also in that time frame a statement of U.S. policy was developed and printed to accompany specifications sent to requesters. We do not know how long the statement remained in use but apparently it fell by the wayside somewhere. We have checked with BDC and MEPD, which forwarded specifications on bid opportunities, and they have no recent memory of such a statement being used. The same applies for CAGNE. This is probably not an issue where the TOPS Program is concerned, since the telegraphic trade opportunity format would not contain boycott references and since TOPS sends bid specifications to BDC or MEPD handling.

The issue is with us again, it appears. The Economic Minister of the Israeli Embassy, Ze'ev Sher, raised it at a meeting on August 7 with Deputy Assistant Secretary of State for NEA Sidney Sober. Sher presented Sober with a copy of a set of specifications for an Iraqi housing project containing a boycott clause which had been sent to a U.S. firm. From the brief description we got, we are reasonably certain that the specifications were provided by CAGNE. We do not feel any vulnerability about this, since it is in accord with past policy and is a reasonable response to the legitimate needs of the business community. Nevertheless, Sher made an issue of whether it was appropriate for a U.S. Government agency to be disseminating boycott information.

Perhaps it would be useful to have another review within the Department, and then with State, and a restatement of policy on the handling of trade opportunities from Arab countries containing boycott clauses. There are essentially two issues in such a review:

1. Is the policy of making nonreference to boycott requirements in the initial dissemination of the trade opportunity, but providing the full details to a firm requesting specifications, an appropriate one? GAGNE believes that it is, since there is no U.S. legal prohibition on a firm complying with boycott requests.

2. Should we review the practice of attaching a statement of U.S. boycott policy when specifications containing boycott references are made available to firms requesting them? CAGNE believes that from a policy standpoint, such a statement might be a useful device for helping to define the current situation.

In advising State on August 11 that we were continuing with the policy in effect since 1965 pending a possible policy review and restatement, I learned that State is rather seriously disturbed by the implications of the U.S. Government disseminating any document containing boycott requests in view of the consideration being given in Congress to more restrictive legislation against the boycott. At least the regional affairs people in NEA appear to be developing the conclusion that such action is inconsistent with the U.S. policy of opposition. It seems likely that State may press for some change in our practice (e.g., the deletion of the boycott clause from specifications given to business firm) as a further effort to head off damaging legislation.

The above suggests that early attention to the issue is desirable. I believe that it would be appropriate to convene the Department's boycott Task Force to develop a Departmental position and try to get an agreement with State in the event that the issue should come up in the context of the general review of policy options now going on in the White House.

EXHIBIT F

ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH,

New York, N.Y., June 9, 1975.

Re: Freedom of Information Request.

DEPARTMENT OF COMMERCE,

Freedom of Information, Central Reference and Records Inspection Facility, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C.

GENTLEMEN: Pursuant to the Freedom of Information Act, 5 USC Sec. 552, we hereby request that you make available to us undeleted copies of the documents filed with the Bureau of International Commerce, Office of Export Control, within the past 24 month period, June 1, 1973 through June 1, 1975, as follows:

All reports of "Requests received for information, certification, or other actions indicating a restrictive trade practice or boycott against a foreign country." (U.S. Exporter's Reports on Form Ia-1014).

We look forward to an early reply.

Sincerely,

ARNOLD FORSTER.

EXHIBIT G

[From the U.S. Department of Commerce News, Washington, D.C.]

COMMERCE CHARGES FIVE EXPORTERS FAIL TO REPORT ARAB REQUEST TO BOYCOTT ISRAEL

Five U.S. exporters have been charged with violating the Export Administration Act of 1969 for failing to report requests to participate in the Arab boycott of Israel, the U.S. Department of Commerce announced today. The companies charged were previously warned of a similar violation in 1968–1969. Under Export Administration Regulations issued pursuant to the Act, they have thirty days in which to contest the charges or agree to the imposition of a sanction.

The Department also announced that as of today, 44 U.S. exporters have been warned that they are violating a mandatory provision of the Act either through inadvertence or through unfamiliarity with the reporting requirement, and will face charges if the violation recurs.

Both charges and the recent warnings result from Commerce Department investigations of allegations made earlier this year that many U.S. firms were not reporting requests to participate in the Arab boycott.

Under the regulations, U.S. exporters are required to report to the Commerce Department any requests for participation in international boycotts or other restrictive trade practices. The regulations provide that the responsibility to report is that of the exporter. However, individuals and organizations handling any phase of an export transaction, including freight forwarders, shipping companies and banks, also share responsibility for communicating such information to the exporter, whose report is then submitted to the Department of Commerce.

EXHIBIT H

ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH,

Washington, D.C., May 27, 1975.

MR. TILTON H. DOBBIN,

Assistant Secretary for Domestic and International Business, Department of Commerce, Washington, D.C.

DEAR MR. DOBBIN: Pursuant to the Freedom of Information Act, 5 U.S.C. Sec. 552, we hereby request that you make available to us the charging letters addressed to the

five U.S. exporters who according to the Department's news release of May 21, 1975, G 75–76, have been charged with violating the Export Administration Act of 1969 for failing to report requests to participate in the Arab boycott of Israel. In the alternative, we request that you furnish us with the names of the exporters so charged.

The same news release also reports that the Department has warned 44 U.S. exporters that they are violating the law either through inadvertence or unfamiliarity with its reporting requirement by failing to report the receipt of such boycott requests. We hereby also request pursuant to the Freedom of Information Act that you make available to us these warning letters or in the alternative that you furnish us with the names of the exporters so warned.

We look forward to an early reply.

Sincerely,

DAVID A. BRODY.

[From the New York Times, Sept. 11, 1975]

SUIT CHARGES UNITED STATES AIDS ARAB BOYCOTT—ANTI-DEFAMATION GROUP SAYS BIASED BUSINESS OFFERS HAVE BEEN CIRCULATED

(By Terry Robards)

The Anti-Defamation League of B'nai B'rith filed suit in Federal Court here yesterday charging Rogers C. B. Morton, the Secretary of Commerce, with aiding Arab countries in their boycott of business interests that are directed or owned by Jews or that support Israel.

The suit alleges that the Department of Commerce has been circulating offers for Arab business opportunities to American companies that contain restrictive provisions against persons or companies supporting Israel.

The suit also alleges that the Commerce Department, under Secretary Morton's direction, has refused to divulge the names of American companies that may have cooperated in the Arab boycott.

RECORDS ARE SOUGHT

The suit demands injunctions preventing the Commerce Department from distributing Arab business offers containing the boycott provisions. It also asks that Secretary Morton be directed to divulge all records involving American concerns that may be implicated in the Arab boycott.

A spokesman for Mr. Morton, reached in Washington, denied any wrongdoing and said: "We think we are being very active and aggressive in disseminating the United States policy on the Arab boycott issue." He added that the information requested by the Anti-Defamation League was required by law to be kept confidential.

In announcing, the lawsuit, Benjamin R. Epstein, the league's national director, noted that last February President Ford had described the Arab boycott as "repugnant" and contrary to American ideals. But Mr. Epstein suggested that the Commerce Department belied the President's statement.

Arnold Forster, the league's general counsel, charged at a news conference here that the Commerce Department was "aiding and abetting the effectiveness of the Arab boycott operation" by hiding the identity of the American companies that had been complying with the boycott.

The lawsuit noted that the Arab League had carried on a worldwide economic, military and political campaign against Israel since before the country was established in 1948. The existence of the boycott is not an issue in the suit and is acknowledged by both Arabs and Israelis, as well as others.

A so-called "blacklist" of individuals and companies barred from doing business with or in Arab countries has been drawn up. The list is believed to include investment banking concerns owned or controlled by Jews in France, England and the United States.

Controversy erupted last winter when it was disclosed that certain banking houses that were directed or owned by had been excluded from financings arranged with Arab funds in Europe. Certain investment companies were said to have cooperated with Arab leaders in blacklisting the banking houses.

AN ACTION BY LEFKOWITZ

In a related development yesterday, Louis J. Lefkowitz, New York State Attorney General, released the recommendations from a report on economic pressures by Arab financial sources. The report recommended continuing surveillance of dealings with Middle Eastern interests and called for the possible regulation of such dealings either at the state level or by the Securities and Exchange Commission.

The attorney general had ordered an inquiry last February after receiving public inquiries expressing concern about the dealings of banking houses that might be making secret agreements with the Arab countries.

Although Mr. Lefkowitz declined to release the report itself, he said it urged that record-keeping be investigated in the area of investment syndications—"especially with reaction to European subsidiaries under control of American securities firms."

The Anti-Defamation League charged in its lawsuit that "the restrictive trade practices and boycott of the Arab League practiced within the United States are so pervasive as to adversely affect thousands of firms and individuals in this country."

The league alleged that reports filed with the Commerce Department indicated that American companies "would comply with Arab boycott requests in over 10,000 individual transactions."

Between 1970 and 1974, the suit asserted, more than 46,000 business transactions were reported in which requests had been received for some form of anti-Jewish or anti-Israel economic activity. In 36,000 of these cases, the suit held, no information was available concerning compliance with the boycott requests.

A spokesman for the Commerce Department explained that the department routinely receives requests for bids or "tenders" from foreign governments and companies to be passed on to American companies that have expressed an interest in the type of work involved.

At the heart of the league's suit is the contention that such offers of business opportunities should not be disseminated by the Commerce Department if they contain any such restrictive provisions.

The suit notes that the Commerce Department has stated its opposition to the Arab boycott and has adopted the practice of stamping all tender documents from Arab League countries with a statement calling attention to any restrictive clauses and advising recipients of the United States policy.

But the suit contends that merely notifying recipients is not sufficient and that the Commerce Department should not disseminate any requests for bids if they contain such restrictive provisions.

MORTON CALLED TO TESTIFY ON U.S. SUPPORT OF ILLEGAL BOYCOTTS

(By William H. Jones)

Last June, the Department of Commerce's office of business research and analysis distributed throughout the American business community a communication from the government of Iraq, detailing intentions to buy 3,550 pre-cast (pre-fabricated) buildings and seeking bids on the project.

"The following trade opportunities have been submitted to the Department of Commerce by U.S. Foreign Service posts overseas," said government official Charles B. Pitcher, in advising the U.S. firms of the Iraq project.

But paragraph 13 of the Iraq proposal, outlining various terms and conditions of any final agreement, read as follows:

"Country of Origin: The tenderer shall not incorporate (in) this tender any material that has been manufactured in Israel or by companies boycotted officially by Iraqi government."

That requirement—which would force a U.S. firm to support an economic boycott of Israel—is a direct violation of official government policy and laws and yet one department of the federal bureaucracy was disseminating such a proposal. Moreover, Commerce was only forwarding to the business community what it had received from another branch of government—the State Department.

Paragraph 13 subsequently has become something of a cause celebre and Secretary of Commerce Rogers C. B. Morton has been summoned to testify before a House subcommittee this morning to answer questions about the extent of U.S. sanction for illegal boycotts. Commerce and State department officials also have begun a review of their policies.

At issue is far more than one proposed business contract, according to Congressional investigators and spokemen for such Jewish groups as the Anti-Defamation League of B'nai B'rith, which recently filed a suit in U.S. District Court, New York, charging that Morton is violating the law in distributing boycott information and in not making public information on what firms have signed business contracts that enforce the Arab League's Israeli boycott.

According to Seymour Graubard, national chairman of B'nai B'rith, an examination of Commerce Department distributions since June 1974 turned up at least one other instance where a proposal contained Arab boycott provisions—a communication from Iraq last March, regarding industrial locomotives, and specifying:

"Tenderer must submit certificate of origin . . . that the goods are not of Israeli origin, not the company having a branch in Israel, and that they will not be shipped on Israeli or blacklisted (by the Arab League) vessels . . ."

In addition, the B'nai B'rith researchers found instances where contracts for Egypt, Qatar and Libya had requirements that could permit rejection on the grounds of violating boycott rules.

"It is ironic that your department distributes warnings to American companies to remind them that the provisions of the Export Administration Act require a report to the Department of any request for boycott compliance—while your department itself is disseminating proposed purchases which include such requests for Arab boycott," Graubard wrote Morton Aug. 11.

In reply, Deputy Assistant Secretary Charles W. Hostler told Graubard on Aug. 22 that the Iraq offer cited had been improperly distributed without an attached statement of U.S. policy opposing such "restrictive trade practices." In the future, he said, all such proposals would be stamped with a statement of policy.

However, Hostler continued, "We do not believe that any useful purpose would be served if the Department of Commerce refused to disseminate bid invitations subject to restrictive clauses, thereby denying U.S. firms prompt access to business opportunities in the Arab markets which they are lawfully permitted to pursue."

Such a policy, he contended, could have an adverse impact on trade balances and U.S. unemployment, "without having any impact on the worldwide application by the Arab countries of their boycott against firms engaging in extensive commercial relations with the State of Israel."

The only solution, he argued, was a successful Middle East peace settlement.

At the same time, the Commerce Department denied formal requests from the House Oversight and Investigations Subcommittee and B'nai B'rith to make public a list of U.S. companies that have been asked to participate in the Arab boycott of Israel.

B'nai B'rith, in its suit seeking publication of the list as well as an end to Commerce Department cooperation in passing on boycott information, said the Arab League's "restrictive trade practices . . . are so pervasive as to adversely affect thousands of firms and individuals in this country."

According to B'nai B'rith, its sources believe that between 1970 and 1974, American companies filed documents with the government showing they would comply with Arab boycott requests in over 10,000 individual transactions. In addition, there were 46,000 requests for anti-Jewish or anti-Israel activities in the same period, B'nai B'rith charged.

The Commerce Department, in reply, stated that the trade documents must be withheld to protect U.S. firms and avoid adverse publicity to those which give in to Arab boycott demands.

According to staff members of the House subcommittee, chaired by Rep. John E. Moss (D-Calif.), Morton has acted improperly in withholding the trade data from Congress. "No exporter filing reports can claim he was misled into relying upon absolute confidentiality," said a memorandum prepared by senior counsel Michael F. Barrett Jr. In addition, staff members said companies may be engaging in violations of federal laws—including the Federal Trade Commission Act and securities laws, which govern such practices as secondary boycotts and dissemination of information.

The exclusion of any investment group, because of ties of Israeli financing, could have a restrictive impact on capital markets in general and thus deny some Americans of investment opportunities, for example.

As a result, the Moss subcommittee has concluded that Congress—at least—must have complete information on U.S. companies' practices in order to conduct a full investigation of the boycott practice.

At today's hearing, Morton will be pressed by Moss on whether he now will comply with a subcommittee subpoena for the documents. If the Secretary declines, he could be cited for contempt of Congress.

Meantime, according to informed sources here and in New York, B'nai B'rith made available to Assistant Attorney General for Antitrust Thomas Kauper, last July at least a dozen examples of documents that indicate U.S. firms are meeting Arab boycott demands. But it was not known if the Justice Department is investigating the documents—which reportedly involve at least three nationally prominent firms.

Moss learned of the B'nai B'rith documents and wrote a letter to Morton late last week demanding copies of export reports filed by the firms since 1970, as required by law. If the firms did not file, Moss said, Morton should say so, according to a subcommittee staff member.

Although aides to Moss said the letter could not be made public at this time, because the companies involved were cited by name, other sources agreed to spell out some of the apparently illegal practices at issue.

One company, for example, affirmed that it did not "possess any plant, firm or branch in Israel . . . does not participate in any firm or company established in Israel . . . has not any supply manufacturing assembly license or technical assistance contract with any firm, company or person established or resident in Israel."

Another U.S. firm was told by a Saudi Arabian college not to quote prices for any goods manufactured by companies included in the Arab boycott blacklist.

A third firm, described as one of the country's major banks, outlined on its own letterhead details of a money transaction in which there was no affiliation with any firm on the Arab boycott list.

Still another big U.S. corporation, engaged in worldwide activities, told its American suppliers that invoices must certify that the goods were not of Israeli origin or that they were not shipped on boycotted vessels.

The Arab League has been promoting a boycott of Israeli goods since 1945—three years before Israel was established.

Arab boycott regulations apply to all individuals and companies trading with or otherwise supporting Israel, including firms with any facilities in Israel, which grant licenses to Israeli firms, which own shares of Israeli firms, which offer services to Israeli firms, which are members of joint chambers of commerce, or which act as agents for Israeli firms. Also boycotted are companies that decline to answer Arab questionnaires on their relations with Israel.

Since 1965, U.S. policy has opposed such practices, under terms of the Export Administration Act. Under that act, U.S. firms are required to report any instances of receiving requests for boycotts against a foreign country.

[From the Washington Post, Sept. 23, 1975]

MORTON AGAIN REFUSES TO LIST BOYCOTT FIRMS

(By Nancy L. Ross)

Commerce Secretary Rogers C. B. Morton refused again yesterday to comply with a congressional subpoena to turn over the names of U.S. companies supporting the Arab boycott against Israel.

The former Maryland congressman, testifying before a House subcommittee, quoted Attorney General Edward H. Levi as saying he was not obliged to supply proprietary information filed in confidence with his department. Morton offered instead to provide a sanitized version eliminating company names and other identifying details.

Subcommittee Chairman John E. Moss (D-Calif.) exploded: "The chair won't receive such information. The chair will be damned if he is going to sit in a Congress that is spoon-fed by the executive (that) gives it only what it wants." The reference was to the White House's withholding of information during the past three years, including the Watergate scandal.

The confrontation ended in an impasse, with Morton saying he would welcome a court ruling on the issue. Moss, for his part, suggested three courses of action: a congressional contempt citation against the secretary, which he acknowledged would be a lengthy process; an investigation of firms suspected of supporting the boycott, a costly endeavor; or disclosure of documents already in the subcommittee's possession "until it becomes uncomfortable" for the secretary to persist in his refusal.

Staff sources indicated that Moss would decide in about a week what to do. The contested documents, both American and foreign, identify U.S. firms that either were asked or agreed to a boycott. The seven documents were made available last summer to the Justice Department by the Anti-Defamation League of B'nai B'rith. Neither the subcommittee nor the Justice Department was willing to make the names public late yesterday.

The Arab boycott, in effect since 1948, became a major issue early this year when Sen. Frank Church (D-Idaho) released the Arab League's own blacklist containing the names of some 1,500 American firms the Arabs are boycotting.

The Export Administration Act of 1965 does not prohibit American companies from supporting the Arab boycott. It only requires the firms to report boycott requests to the Commerce Department; it does not require them to state whether or not they are observing the boycott.

Morton said yesterday that, to the best of his recollection, fewer than half of the U.S. companies reporting indicated whether or not they were complying with the Arab boycott. To date, he said, his department has not turned over any case to the Justice Department for investigation.

Morton insisted that, while he did not condone boycotting, the question at hand was the confidentiality of information which the government promises business to safeguard. "If I took the law into my own hands and interpreted it in a different way each time an emotional issue came up, we would have chaos in the country," he said.

The secretary's responses seemed to infuriate the chairman and several other subcommittee members who wanted to know if the clear intent of the anti-boycott law was not being violated. They stressed the need for complete information to amend the law if necessary.

Rep. Richard L. Ottinger (D-N.Y.) demanded to know why the Commerce Department circularized foreign governments' trade opportunities containing boycotts. The reply was that opportunities would be missed if Commerce did not send out these offers.

AMBASSADORS OF GOOD WILL: THE U.S. SKI TEAM

Mr. PERCY. Mr. President, skiing is one of the fastest growing sports in America and, I can personally attest, one of the most enjoyable. Few experiences can surpass the thrill of that silent moment when, looking down into the valley far below, one takes a last cold breath and starts the descent. From beginners to experts, millions of Americans have found this natural "high" increasingly irresistible; from Maine to Colorado to Washington people are "thinking snow."

Skiing is not only a top recreation in America but one of the biggest international competitive sports as well. Many nations field government-supported downhill, cross-country and jumping teams which train and compete year-round all over the globe. These exciting contests are not only vastly popular and great fun to watch, but they also help in many subtle ways to enhance international understanding. It is for this reason that I would like to express to the U.S. Ski Association and the U.S. ski team my admiration and appreciation for the fine American teams they have developed, and all they have done at home and abroad for the sport of skiing.

Traditionally, European teams—the French, Austrians, Swiss, and Italians—have dominated the downhill events, while the Scandinavians, and recently the East Germans, have won the honors in the Nordic events—cross-country racing and jumping. In recent years the Japanese have also emerged as top competitors, and graciously hosted the 1972 Winter Olympics at Sapporo.

In the face of this stiff competition, American skiers have done well, consistently placing fifth or sixth in overall worldwide standings over the last decade. This represents quite an accomplishment, especially considering that, unlike their competitors, the U.S. teams have never been Government-subsidized.

But last season, the U.S. ski team outdid itself, winning more major races

than it had in the last 10 years combined, and jumping 45 percent in international, FIS-point standings. This quantum leap in performance represents the first dividends on a tremendous investment of time and effort on the part of the U.S. Ski Association and the ski team over the last several years.

Thanks to the generosity of many Americans, the association and the team had the wherewithal to develop a comprehensive imaginative program designed to spot talented youngsters early and help to bring them along. Fine coaching and rigorous competition in training camps around the country help sharpen the skills of selected young athletes; a medical advisory board monitors their training regimen and diet. In all, skiers in the program spend about 10 months out of each year either training or competing.

Last year's opening of the new national training center in Park City, Utah, represents another giant step toward fulfilling the long-term goals of the team. Donated by the Greater Park City Co., the center promises to provide the resources for year-round stateside training the team has been trying for so long to develop. With housing units halfway up the mountain, the center incorporates a new lift, difficult new slalom, giant slalom, and downhill courses, as well as fine cross-country trails and new jumps. This new development could help make the difference for the outstanding young athletes who will represent us at the winter Olympics this February at Innsbruck, Austria.

Of course, even such a comprehensive training program as this can only be as good as its coaching staff; and the ski team has assembled a staff which ranks among the best and most accomplished in the world.

But I do not want to emphasize exclusively the material aspects of the team's accomplishment. The U.S. ski team offers talented and dedicated athletes the opportunity to represent their country abroad, on and off the slopes. These men and women must learn to cope diplomatically with all kinds of sensitive situations, and to accommodate many differing points of view and frames of reference. For them, the phrase "international understanding" is neither platitude nor abstraction, but a goal to pursue with the same determination they devote to shaving seconds from each run down the slope. As unofficial ambassadors of good will for our country abroad, they deserve the generous support individual Americans have afforded them in the past in lieu of the Government subsidy which they do not receive. As honorary cochairman of fund raising efforts for our U.S. ski team, I join together with millions of Americans in wishing them outstanding success in the coming year.

NO TIME FOR SECRECY

Mr. PERCY. Mr. President, secret documents submitted to the Senate Foreign Relations Committee that pertain to U.S. commitments and assurances in the Sinai agreement should be declassified and debated publicly.

These documents have been released to the committee by Secretary of State Henry Kissinger. The documents should be declassified to give Congress and the American people the opportunity to publicly discuss U.S. commitments in the Sinai agreement.

The Sinai agreement calls for spending billions of U.S. dollars in the Mideast for military hardware and economic assistance. In addition, U.S. civilian technicians have been promised to the peacekeeping effort. Surely the American people and their elected officials are entitled to discuss and debate the details of this arrangement. This is no time for secrecy.

The Foreign Relations Committee should hold immediate public hearings on the U.S. commitments and assurances after the material presented to the Foreign Relations Committee has been declassified.

Time is of the essence, however. If the Secretary of State can engage in 18-hour-a-day shuttle diplomacy, the least the Congress can do is engage in an accelerated schedule to make a prompt decision on ratification.

These commitments and assurances should be discussed and scrutinized openly, however, to give Members of Congress and their constituents every opportunity to make comments and pose questions. This is the only proper way to commit the Government to foreign agreements in a free society, particularly agreements so intimately related to the issue of war or peace in the Middle East.

International diplomacy often requires secrecy, but in this case the need for broad support for the American role in the Sinai agreement makes it imperative that all the facts be disclosed and discussed.

The Sinai agreement represents a positive step toward a just and lasting peace in the Middle East. We can be proud of the U.S. contribution to the agreement. But Congress and the American people have a right to know the extent and the expense of this contribution and our commitment.

FTC LAUNCHES INVESTIGATION OF EYEGLASS ADVERTISING RESTRICTIONS

Mr. PERCY. Mr. President, I commend the Federal Trade Commission for its timely response to an acknowledged and important problem. Its investigation, announced yesterday, into State restrictions on the advertising of eyeglass prices, with a view toward quashing those restrictions, should lead to sizable cost savings for the more than 100 million Americans who wear glasses or lenses.

In a time of serious inflation, consumers should not have to pay from 25 to 100 percent more for a product so necessary to their work and enjoyment, simply because of arbitrary restraints at the State level which senselessly deny them the price information they need to make an informed choice.

In response to my statement of a week ago on this subject, urging prompt Federal action to annul these State restrictions, I have received numerous inquiries which raise thoughtful questions about my position. Some of the inquiries raise concerns going to the possibility that the professionalism of the optometric industry might be threatened by allowing price advertising of eyeglasses and lenses.

Accordingly, I have attempted to summarize these arguments and address each in turn. I ask unanimous consent that those arguments, and my responses, be printed in the RECORD. I also ask to have included a letter that I have received from the editor of the prestigious American Journal of Opthamology, Frank W. Newell, M.D., who very succinctly and candidly comments on the benefits to the consuming public at large which can be expected to accrue as a result of the elimination of these arbitrary state restrictions.

And finally, I ask to have appended to my remarks a survey conducted by the staff of the Federal Trade Commission, which identifies State by State the current restrictions on eyeglass price advertising.

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

RESPONSES TO ARGUMENTS LEVELED AGAINST ALLOWING EYEGLASS PRICE ADVERTISING

THIS IS A STATE MATTER

Argument

What gives the federal government the authority to annul state anti-price advertising laws? This is really a matter of state's rights.

Answer

Under the Supremacy Clause of the Constitution, federal laws preempt state laws, when they are in conflict as to a matter that rightfully falls within the domain of federal jurisdiction. The courts have ruled that FTC trade regulations issued pursuant to the agency's mandate have the same force and effect as federal laws. Thus, state laws or restrictions which conflict with such trade regulation rules affecting interstate commerce must fall by the wayside.

Restricting price information is not vital for any important state interest in advancing the public health, safety, and welfare. Restrictive state laws and trade properties are, in fact, harmful restraints on trade because they result in increased prices to the consumer without any compensating economic and social benefits. Such restraints are contrary to a clear public policy to check unnecessary inflation which undermines the nation's economy.

LOWER PRICES AND ADVERTISING

Argument

Price advertising will not automatically result in lower prices for consumers, and, in any event, consumers will not be capable of measuring the relative merits of different lenses and frames, even if presented with price differences.

Answer

The FTC, in its proposed rules last June annuling state laws that forbid advertising prescription drug prices, concluded that (1) consumers would use price information in a rational manner; (2) price advertising would encourage price competition among retailers; and (3) consumers would spend substantially less for drugs because they would possess price information through advertising.

BAIT AND SWITCH

Argument

Price advertising will lead to "bait and switch" tactics by unscrupulous dealers, who will advertise one price, but switch the consumer to higher-priced frames and lenses.

Answer

Such "bait and switch" advertising is illegal in most states and constitutes an "unfair and deceptive trade practice" under Section 5 of the Federal Trade Commission Act. Opticians who engage in such tactics will be subject to criminal prosecution just as any other merchant who so behaves. Moreover, even if some dealers practice this deception, the consumer should not be denied valuable price information for that reason. State officials in Nebraska, Maryland, Texas, and Iowa—states that permit price advertising—say that bait and switch is not a problem.

SERVICE VERSUS COST

Argument

Quality service is an important factor. Opticians and optometrists charge more because they give better service.

Answer

First, it should be noted that higher prices do not necessarily mean better service. Indeed, in some cases a price gouger can provide worse, not better service. But even accepting the assumption that there might be some sacrifice of service in turn for lower prices, the person who wants to pay more for better service will still be able to do so, if price advertising is permitted. But the person who wants to sacrifice some degree of quality service for lower prices, will have a choice he does not now enjoy. In most states where price advertising is forbidden, relevant price information is not known to consumers. For the indigent and the elderly on fixed incomes, the "choice" may come down to low-priced glasses or no glasses at all (or the retention of scratched lenses or broken frames.)

QUICKIE EXAMS

Argument

Optometrists working for cut-rate opticians will perform "quickie exams" because they are under pressure to meet a quota. By hurrying the exam, optometrists will fail to diagnose eye diseases such as glaucoma.

Answer

There is no available evidence to support this concern. But if optometrists prove to be unprofessional or negligent, they are subject to disciplinary action by state licensing boards which could lead to loss of license, and they are subject to legal actions for malpractice.

SHODDY GOODS

Argument

Opticians who advertise can only offer lower prices because they sell low quality and shoddy merchandise, which ultimately is a health hazard to the consumer.

Answer

With respect to lenses, some of the higher-priced opticians and optometrists *currently* buy their lens blanks from the wholesale laboratories owned by opticians who advertise. Moreover, since 80 per cent of all lens blanks are made by two manufacturers (American Optical, and Bausch & Lomb), there are not likely to be substantal variations in lens quality. Finally, any health hazard is minimized because there is no hard evidence to indicate that even lesser quality lenses are likely to permanently harm eyesight.

As for the quality of the frames, a buyer should have the right to select any frame, even if it is of lesser quality, if that is the quality he prefers in view of the cost savings, or especially if it is the only quality he can afford.

POOR WORKMANSHIP

Argument

Opticians who advertise do sloppy work. They have been known to dispense lenses which do not adhere to the original prescription.

Answer

One large optician who advertises says that each outgoing lens is checked as to whether it comports with the prescription ordered. If the lens is inaccurate, the staff will grind a new lens. Many of the large advertising opticians have been in business for over 30 years. If they consistently dispense inaccurate lenses, they would have been put out of business long ago.

PROFESSIONALISM IMPAIRED

Argument

Optometry is a professional service akin to practicing medicine. Doctors don't advertise prices for removing kidney stones. Why then should opticians denigrate the profession by advertising the price of lenses and frames?

Answer

The issue is not the advertising of prices for performing optical examinations, but only for the sale of lenses and frames which prove to be needed *as a result of* competent examination.

OUTDATED STUDY

Argument

The Benham study was based on data gathered in 1963. His research is out of date.

Answer

Although Professor Benham's research is 12 years old, a new Benham study to be published this fall shows no significant variation in results. Staff and media research conducted over the last half year corroborated the original study results.

AMERICAN JOURNAL OF OPHTHALMOLOGY,
Chicago, Ill, September 18, 1975.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: This is to laud you for your stand on price advertising of eyeglass lenses and frames. There is little or no reason why such lenses should not be subject to the usual checks and balances of the market place. I do hope that you can convince the Federal Trade Commission that the price should be advertised and that prescription lenses should be freely available.

There is no relationship between the accuracy of grinding a lens and its cost, and very little between the quality of the lens and its cost. The eyes cannot be harmed by improper lenses, which at the worst can blur vision or cause discomfort and eye fatigue. I hope you will provide me with a copy of your letter to the Federal Trade Commission so that I may publicize it in the American Journal of Ophthalmology. This is an important economic and professional area and I am anxious to assist in every way I can. With every best wish, I am

Sincerely yours,

FRANK W. NEWELL, M.D.

[Press release, Sept. 23, 1975]

FTC ANNOUNCES INVESTIGATION OF PRICE ADVERTISING IN THE PRESCRIPTION EYEGLASS INDUSTRY

The F.T.C. has initiated an investigation of the prescription eyeglass industry in order to determine whether industry members have been or are now violating Section 5 of the F.T.C. act by failing to disclose certain information, particularly information concerning the prices of eyeglasses and contact lenses.

The Commission is particularly concerned with investigating state laws and regulations and private associations that may restrict the amount of price information available to the public.

The existence of an investigation does not imply that violations of the law have occurred.

FEDERAL TRADE COMMISSION SURVEY OF CURRENT STATE RESTRICTIONS ON EYEGLASS PRICE ADVERTISING

Key—1. Statutory price advertising prohibition optometrists: U=unprofessional conduct definition; G=grounds for license suspension or revocation other than unprofessional conduct; C=crim.na. penalties for unlawful price advertising; D=defers power to State board or professional association to define unprofessional conduct. 2. State board regulation price advertising prohibitions (X). 3. State optometric association price advertising prohibitions: S=State association codes of ethics or rules of practice; N=national association (American Optometric Association) code of ethics deferred to by State association. 4.* All forms of media advertising prohibited except announcement of new practice or location. 5.* No advertising of discounts or premium. 6.* Sign and window display limitations. 7.* Telephone directory listing limitation. 8.* Practice in mercantile establishment prohibited. 9.* Employment with unlicensed persons or firms prohibited. 10.* No more than 1 branch office. 11. Opticians prohibited from price advertising by statute or regulation: L=licensing statutes or regulations for opticians contain ad bans; A=all persons designations in optometry statutes extend ban to opticians.* L=prohibited by State law. R=prohibited by regulation. E=prohibited by professional association codes of ethics or rules of practice.]

	Price advertising prohibitions			Other advertising restraints				Business practice restraints			Opticians
	1	2	3	4	5	6	7	8	9	10	11
Alabama	D		S	E	L	E	E	E			
Alaska	D	X				R	R	R			L
Arizona			S		E						
Arkansas	C			L	L	R	R	R			
California	C							R	L	L	L
Colorado			S		L		L				
Connecticut	D	X				R		L			
Delaware			N			R	R	R			
District of Columbia			S		E	E	E				
Florida	C			L	L	R		R	R	R	L
Georgia		X		R				R			
Hawaii	G				L			L			L
Idaho	D	X				R	R		R		
Illinois	C				L	L					A
Indiana	C								L		A
Iowa			N			E	E	E			
Kansas	D	X			R	R	R	R			
Kentucky	C				L	L				L	

FEDERAL TRADE COMMISSION SURVEY OF CURRENT STATE RESTRICTIONS ON EYEGLASS PRICE ADVERTISING—Continued

[Key—1. Statutory price advertising prohibition optometrists: U=unprofessional conduct definition; G=grounds for license suspension or revocaion other than unprofessional conduct; C=criminal penalties for unlawful price advertising; D=defers power to State board or professional association to define unprofessional conduct. 2. State board regulation price advertising prohibitions (X). 3. State optometric association price advertising prohibitions; S=State association codes of ethics or rules of practice; N=national association (American Optometric Association) code of ethics deferred to by State association.4.* All forms of media advertisinng prohibied except announcement of new practice or locations.5.* No advertising of discounts or premium.6.* Sign and window display limitations.7.* Telephone directory listing limitation.8.* Practice in mercantile established prohibited.9.* Employment with unlicensed persons or firms prohibited.10.* More than 1 branch office.11. Opticians prohibited from price advertising by statute or regulation; L=licensing statutes or regulations for opticians ad bans; A=all persons designations in optome try statutes extend ban to opticians.*1 L=prohibited by State law. R=prohibited by regulation. E=prohibited by professional association codes of ethics or rules of practice.]

	Price advertising prohibitions			Other advertising restraints				Business practice restraints			Opticians
	1	2	3	4	5	6	7	8	9	10	11
Louisiana	C										
Maine	C			E	E	E	E	L			A
Maryland			N								
Massachusetts [1]	C				L						
Michigan	C										A
Minnesota	U										
Mississippi	D	X		R				R		R	
Missouri	G				R	E		E			
Montana	C								L		A
Nebraska	U				L						
Nevada	U			R		R		L			L
New Hampshire	G										
New Jersey	G			L	R	L	L	L	L		L
New Mexico	C				S			S			A
New York	D	X			R						L
North Carolina	G			L							L
North Dakota	C			R					L		
Ohio		(2)									
Oklahoma	C			L				L	L		A
Oregon	G				L						A
Pennsylvania	G									R	A
Rhode Island	D	X						L			
South Carolina	C				L			L		L	L
South Dakota	U			R							
Tennessee	G			L							L
Texas	[1] G					E		L			
Utah	[4] U										
Vermont			S								
Virginia	U							L			L
Washington	[1] C			E	L			E			L
West Virginia	[3] G			E				L			
Wisconsin	C			R		L					A
Wyoming	U										A

[1] Partial ban, only frames and mountings may be advertised—Not lenses or professional services.
[2] Price advertising banned by city ordinance in cities such as Cleveland and Springfield.
[3] Advertising of completed eyeglasses prohibited unless prices broken down as to component parts.
[4] Price advertising prohibited unless accompanied by simultaneous disclosure of quality, grade, and special characteristics of the optical article.

RECESS UNTIL 1 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 1 p.m.

At 12:38 p.m., the Senate recessed until 1 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BURDICK).

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask that the time be equally charged against both sides; and I ask unanimous consent that I be recognized upon the rescinding of the quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1976

The Senate resumed the consideration of the bill (H.R. 8069) making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a division of time, the time during the hour to be equally controlled by Mr. BROOKE and by myself, with the understanding that no motions whatsoever be in order during that hour, and that includes any type of motion.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, in recent days noted columnist George Will writing on the rites of fall quoted the Poet Shelley to the effect that the sound of autumn was "leaves like light foot-falls of spirits passing through the streets,"—the Washington Post, Wednesday, September 10, 1975, A23. This verbal picture of seasonal harmony was quickly dispelled by Will's fellow columnist William Raspberry's observation that perhaps to many Americans the sounds of autumn were the sounds of angry antibusing sentiments which are threatening the public peace in various sections of the country.

The ugly headlines coming from Boston and Louisville remind us that autumn 1975, like not a few of its recent predecessors, is marked by violence. Where once this season ushered in the joys that accompanied a bountiful harvest, it now marks the anguish occasioned by the emptiness of simplistic remedies to complex human problems. Massive forced busing, the radical panacea for desegregating the Nation's public schools, is again pitting Government against the people whom it is intended to serve. Notwithstanding its conspicuous failure in righting past wrongs, it is a fallacy which a diminishing circle of supporters cannot let go. In truth—

Busing is . . . the Vietnam of 1970's. It is a quagmire; a lost cause; taxation without representation; a policy of massive social engineering with little clear prospect of benefit; a mistake; a tragedy; breeder of endless demonstrations, riots, and dissent. Novak, the Boston Globe, Thursday, August 28, 1975, 27.

These are not the fierce reactions of an unthinking and unreasoning minority, but the overwhelming sentiments of an overwhelming number of Americans. A Gallop poll reports that a majority of the American people continue to favor school integration, but few—black or white—believe that busing students from one district to another is the best way to do it. Only 9 percent of blacks and 4 percent of the whites favor such busing—Fritchey, the Washington Post, Saturday, June 14, 1975, A13. In an accurate, if somewhat acid description of the small coterie of fanatical busing supporters, Michael Novak states that:

Only "the best and the brightest," it seems, as in Boston, favor it. They designed it, and they will never suffer their children to experience it. The Boston Globe, supra.

The reasons school desegregation continues to be the Nation's major unsolved domestic problem are neither particularly obscure nor particularly complex. The reasons can be boiled down to a near-total and unquestionably tragic disregard for the principles of the school desegregation cases. To begin with, race first, last, and always is, or should be, a constitutionally impermissible standard irrespective of motives. As fully attested by events of the recent past, remedial relief which subsumes racial distinctions is inconsistent with that principle and, manifestly, does not conduce the solution of racially based problems.

Another major tenet of the Brown decision is that quality education must be secured for all our young people. In the words of Chief Justice Warren:

> Today, education is perhaps the most important function of the state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied *the opportunity of an education. Such opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms. Brown v. Board of Education,* 347 U.S. 483, 493 (1954). (Italics added.)

In the 21 years since that landmark decision—21 years during which an American dilemma has been transformed into an American tragedy—we have come full circle. The racial criterion supposedly once and for all eliminated as a factor in the admission of children to the public schools seems now to be the principal factor in the admission of children to the public schools. The hoped-for promised land of equal educational opportunity has been in large measure supplanted by equality of opportunity to educational mediocrity. With increasing frequency our newspapers tells us of declining math and English test scores at all levels; of continuing declines in the aptitudes of entering college freshmen. The latter trend has been going steadily down since 1964. While these trends are the result of various causes, the fixation with racial balance and the massive use of forced busing to achieve it is clearly a prime cause of this, our long season of national discontent.

This remarkable state of affairs is the product of judicial and bureaucratic dissembling in hard cases on the basis of half-baked sociological surveys. Most of the annual heartache that attends the beginning of the school year has largely come about in the second decade following the Brown decision. In the first decade, the courts, high and low, adhered fairly consistently to that decision's overriding principles. Although there was much criticism at the time about much deliberation and little speed, the Supreme Court churned out a number of significant rulings defining the nature of the basic right in question. Thus, in a series of cases, the Supreme Court held that black children initially assigned to schools on a racial basis could not be required to transfer where their race was in a minority to a school where their race was in the majority, *Goss* v. *Board of Education,* 370 U.S. 683(1963); that black children had a right to attend nonracially segregated schools without having to exhaust state administrative remedies, *McNeese* v. *Board of Education,* 373 U.S. 668(1963); that there was a right to have the public school kept open in one county if all other schools in the State were open, *Griffin* v. *County School Board,* 377 U.S. 218(1964); that there was a right to a racially desegregated public school faculty, *Rogers* v. *Paul,* 382 U.S. 198(1965); that there was a right to have that plan of desegregation that would affirmatively undo the effects of prior discrimination, *Green* v. *County School Board,* 391 U.S. 430(1968); that "continued operations of segregated schools under a standard of allowing 'all deliberate speed' for desegregation: was no longer constitutionally permissible." *Alexander* v. *Holmes County Board of Education,* 396 U.S. 19(1969).

Admittedly, much of this litigation could have been avoided had the States fallen in line with the Brown decision rather than engaging in purposeful evasion. However, it accomplishes little to assess blame since that eventually leads to first causes and to so many now academically but fors. It is a fact, however, that progress in desegregating Southern public schools was being made—and it was being made, if not without some pain, without the wound in the heart brought on by forced busing to achieve racial balance.

Beginning in the middle and late sixties, circumstances and events seemed to play into the hands of uncompromising integrationists. Notable among these were the resegregation of Southern cities brought on by white flight, the hard nut of segregated residential patterns in traditional neighborhood school attendance areas, both North and South, and judicial and bureaucratic developments which seized upon forced busing as a cure for many of our modern education ills, not simply desegregation.

The first departure from the theretofore solid line of Brown doctrine based cases appears in the 1966 case of *United States* v. *Jefferson County Board of Education,* 372 F2d 836 (5th Cir. 1966) where the court read the landmark decision in such a way so as not simply to condemn segregation, but to require integration. Accordingly, the duty imposed on school authorities was an "affirmative duty" to eliminate both present discrimination and the last vestiges of the former duel school system. In order to achieve what was termed a "unitary system," the racial composition of the students was deemed to be a proper consideration.

The germ of the Jefferson idea trickled into the High Court's 14th amendment jurisprudence in 1968 in *Green* v. *New Kent County,* 391 U.S. 430 (1968). There the Court effectively held that a violation may exist even when the segregation is not the result of racial assignments. This approach was reaffirmed and extended in *Swann* v. *Charlotte-Mecklenberg Board of Education,* 402 U.S. 1(1971) and *Keyes* v. *District No. 1, Denver, Colorado,* 413 U.S. 189(1973).

In Swann and Keyes the Court reaffirmed Green's rejection of the view that Brown prohibited only use of race. The basis of assignment in Swann and Keyes was not the freedom of choice plan at issue in Green but the more commonplace one of geographical proximity. That is, students being assigned to schools nearest their homes. In both, the Court held that there was a denial of equal protection even though assignments were made on the nonracial basis of geographical proximity.

Having effected this 180-degree turn about from Brown's condemnation of purposeful racial discrimination and finding an effective denial of equal protection clause in the fact of a segregated pattern per se, it perhaps comes as little surprise to find the Court placing its seal of approval on the use of racial quotas in making student assignments and busing to effect the a priori determined racial mix. Thus with respect to the former, we find the Court saying:

> Awareness of the racial composition of the whole school system is likely to be a useful starting point in shaping a remedy to correct past constitutional violations. In sum, the very limited use made of mathematical ratios was within the equitable remedial discretion of the District Court (402 U.S., at 25.)

Insofar as busing was concerned, the Court with a simple turn of phrase observed that "Desegregation plans cannot be limited to the walk-in school." (Id., at 30). Although it sought to place some limits on the amount of busing that could be used "when the time or distance of travel is so great as to either risk the health of the children or significantly impinge on the educational process" these seemed to be the product of a hasty afterthought and, thus, eminently forgettable in the exercise of discretionary equitable jurisdiction. The lower courts would so construe the Court's cautionary remarks.

The Supreme Court thus turned the original meaning of *Brown* v. *Board of Education* (347 U.S. 483, 1954) on its head in its more recent decisions affecting school desegregation cases, and the use of court-ordered busing to affect racial balance in the schools. The decision in Brown I banned the assignment "of children in public schools solely on the basis of race . . ."—Brown I at 493. The Court held that such children were ". . . deprived of the equal protection of the laws guaranteed by the 14th amendment"—Brown I, at 495.

Despite this principle, the Supreme Court has allowed exactly such events to occur in the name of "racial balance" within the schools.

The drastic extension of Brown I in the later cases is barely, if at all, explained in the decisions. To require the dismantling of "dual" school systems by not allowing the assignment of children to particular schools on the basis of race is one thing. But to require school boards to act affirmatively to achieve racial balance in the schools by the assignment of children to particular schools solely

on the basis of race is quite another thing.

The real turning point for the forced busing of school children because of their race came about in *Swann* v. *Charlotte-Mecklenburg Board of Education* (420 U.S. 1, 1971) where the Supreme Court upheld a U.S. district court order to impose a racial balance requirement of 71 to 29 percent on individual schools, the same percentage as existed within the entire school system.

Despite explicit language in Swann that the Court was concerned with elimination of the discrimination inherent in "dual" school systems—that is, school segregation that had been imposed by State law, the Supreme Court has approved the use of forced busing into school districts where there has been no history of State-imposed segregation. Now, the courts equate the actions of individual school board members as "State-imposed" action and allow court-ordered busing to achieve the racial balance which the court believes is appropriate for the school district. This is done, usually citing Swann as the precedent, despite the following clear language in the Swann case to the contrary:

We are concerned in these cases with the elimination of the discrimination inherent in the dual school system, not with myriad factors of human existence which can cause discrimination in a multitude of ways on racial, religious, or ethnic grounds. The target of the cases from Brown I to the present was the dual school system. The elmination of racial discrimination in public schools is a large task and one that should not be retarded by efforts to achieve broader purposes lying beyond the jurisdiction of school authorities. One vehicle can carry only a limited amount of baggage. It would not serve the important objective of Brown I to seek to use school desegregation cases for purposes beyond their scope. . . . Our objective in dealing with the issues presented by these cases is to see that school authorities exclude no pupil of a racial minority from any school . . . it does not and cannot embrace all the problems of racial prejudice even when those problems contribute to disproportionate racial concentrations in some schools." (Swann, at p. 22–23).

The courts have, nonetheless, continued to order forced busing to achieve a racial balance in the school districts, despite the fact that the 14th amendment has never been held to grant as a constitutional right meaningful integration in a biracial community. In the Swann case, the Supreme Court discussed racial balancing within the individual schools and stated:

If we were to read the holding of the District Court to require, as a matter of substantive constitutional right, any particular degree of racial balance or mixing, that approach would be disapproved and we would be obliged to reverse." (Swann at p. 24).

Despite this warning in 1971, the courts have escalated the use of forced busing to achieve racial balance in school districts for the past 4 years. Such action clearly flies in the face of the teaching of Swann and has trampled the 14th amendment rights of the children, both black and white, who are being bused against their will to schools they do not wish to attend. They are denied admission to schools of their choice because their race has met its "quota," as determined by the court, for their neighborhood school and they are transported to other schools where their race is needed to establish that school's "proper quota" as determined by the court. They are, in fact, denied the ability to attend the schools they wish to attend, on the sole basis of their race.

This is the very action that was found in violation of the 14th amendment in Brown I, and which precipitated the entire line of school desegregation cases.

Of course, the justices and the judges are not the only ones responsible for turning many of the Nation's schools into armed camps each and every fall. In truth, many of the more egregious court decisions of recent years, as well as the highhanded efforts of HEW's Office of Education, expressly or impliedly drew sustenance from the so-called Coleman report that was launched with much fanfare in 1966. The report, an assumed infallible sociological survey, provided statistical data to show that black students in integrated classrooms learned somewhat better than blacks in segregated classrooms. Rather than being denounced for that demeaning and deprecating implications radiating therefrom, the report was seized by social schemers who relegated blacks and education to the background in order to advance their pet theories. Although it is a fact that it did not mention busing, the latter in the minds of self proclaimed theorists was clearly implied.

It is only in more recent times that attention has been given to the Coleman report's other and perhaps more solidly based finding that economic status rather than race is a crucial determinant in scholastic improvement. That is, that as a general matter, poor children learn better when they go to school with middle class students.

These are the seeds from which have sprung the incarcerating and suffocating banyan tree of massive busing. However misguided, both in terms of jurisprudential and sociological theory, these errant concepts provided the underlying basis for attempting to mirror in the classroom highly individual notions of the proper racial balance to be pursued by any means whatsoever, and specifically massive forced busing of students. In Detroit, for example, a Federal district court judge held that both the State of Michigan and the Detroit Board of Education had engaged in practices that helped cause segregation in the Detroit public schools. *Bradley* v. *Milliken*, 338 F. Supp. (E.D. Mich. 1971.) Since the existing demographic situation did not allow redress solely within the limits of the Detroit district, and because the State of Michigan is legally responsible for drawing school lines, the judge accepted an integration plan that included cross-busing of students between Detroit and 52 surrounding school districts into 16 clusters in which about 333,000 students would be bused.

Another Federal district court found that the city authorities contributed to the black concentrations in Richmond, Va., and ordered that the city schools be consolidated with largely white adjoining school districts in Henrico and Chesterfield Counties in order to eliminate segregation in the Richmond public schools. The plan required 15,000 additional students to ride an average of 70 minutes a day.

In Louisville, thanks to a decision handed down in Cincinnati on December 11, 1974, the U.S. Court of Appeals called for the busing of 30,000 pupils between downtown Louisville, where the schools are about 50 percent black, and suburban Jefferson County, where the schools are about 90 percent white.

In Boston, 26,000 students have been ordered to be bused to desegregate 162 schools in almost all parts of the city.

The financial costs of massive busing are staggering even in an age justifiably jaded by billion dollar budgets. The following report which is more than 2 years old gives some idea of the enormity of the financial costs of busing:

Court-ordered desegregation is costing Pontiac, Michigan $700,000 and Pontiac has had to cut educational programs to meet these costs. The superintendent and chairman of the school board in Dade County, Florida testified last June that "The financial impact of desegregation is placing severe demands and burdens on the affected school systems." School desegregation in Dade County, which has a $250–million school budget, cost an additional $1.5 million in just six months. Additional transportation is costing $670,000 a year. Pasadena, California is spending $300,000 in Federal Aid for Impacted Areas which would otherwise be used for instructional programs. Pasadena is implementing a federal desegregation court order. In Harrisburg, Pennsylvania, which is desegregating under state administrative procedures, additional transportation costs are more than $500,000 a year. Harrisburg has had to cut additional programs to pay for busing. In Nashville, Tennessee, because of an inadequate number of school buses, opening times for schools have been staggered so that some children start school as early as 7:00 a.m., and others arrive home after dark. The inconvenience this has caused threatens public support for education in Nashville. (Mondale, Busing in Perspective, *The New Republic*, Mar. 4, 1972, 19.)

The human toll is beyond calculation.

Interestingly and ironically, while the lower Federal courts continue to order massive busing, the jurisprudential and sociological underpinnings for their actions are undergoing reexamination.

Also, statistics show there is more racial concentration in many big city schools today than there was before the push for busing began in the late 1960's. What has been happening is a flight of white families from the central cities to the suburbs, accompanied by an increase of blacks in the central cities.

Moreover, there seems to be growing evidence that busing children to schools outside their neighborhood has neither significantly improved their education nor succeeded in its aim of getting more blacks in schools that are predominantly white.

The recent actions of the Supreme Court seem to indicate that if it does not follow the election returns, it has begun to see the bleak portents of its more modern and wayward jurisprudence. This is particularly true with respect to cases involving plans which

require the merging of suburban school districts with their heavy emphasis on busing. In *Bradley* v. *Richmond*, 412 U.S. 92 (1973), the justices dividing 4 to 4, left standing the Fourth Circuit Court of Appeals' reversal of the Virginia multicounty school consolidation. In *Keys* v. *School District No. 1, Denver, Colo.*, 413 U.S. 189 (1973), the Court avoided the plunge into the morass raised by the issue of the constitutional status of de facto segregation. Finally, and precedentially significant, the Court reversed the massive Detroit cross-city plan, saying that the suburbs cannot be forcibly included in a desegregation plan unless they were found to have practiced deliberate segregation in their own schools. *Milliken* v. *Bradley*, 418 U.S. 717 (1974).

If the justices are beginning to entertain reservations with respect to the desegregation policies formulated in Green, Swan, and Keyes, et al., the retreat of noted sociologists upon whose theories these decisions expressly or impliedly rested has been something less than decorous. Conspicuous among these is Prof. James Coleman whose recent studies are casting a dubious light on the effectiveness of massive busing to desegregate the public schools. Indeed, he now seems to be warning about the flight to the suburbs and questioning the capacity of judges to redraw school districts.

The codirector of the 1966 survey is also reported as believing that busing has misfired. He is quoted as new persuaded the negative consequences of busing are more for reaching than originally perceived.

More recent surveys are even more doleful than even Professor Coleman and his former coeditor believe. One of these states that:

> Our results suggest that after seven years busing in one community, friendship across race has not substantially improved. The findings support a conjecture that appears to warrant greater attention than it has received to date: If busing does not improve the interactions between black and white children is it likely to produce anything else of value. (Wolf & Simon, Does Busing Improve the Racial Interaction of Children, 4 *Educational Research* 5 (Jan. 1975).)

These as yet preliminary findings seem to find ample support in the demographic changes that have taken place in recent years. The evidence is that in many of the Nation's major cities today there are so many more black pupils than white that every school would still be predominantly black, no matter how many children were bused to achieve racial balance.

The Atlanta public schools were 70-percent white before desegregation began, with 115,000 pupils. Today, the schools are 81-percent black and there are 90,000 children in the system—U.S. News & World Report, August 14, 1975, 26.

In Inglewood, Calif., minority groups made up 38 percent of the public school enrollment 5 years ago. This year they made up 80 percent and a State judge withdrew a busing order he had handed down in 1970. He said it had reached the point where the schools were "busing black children from predominantly black schools to other predominantly black schools."

The bitter discord associated with busing and its meager results prompted columnist Nicholas von Hoffman to conclude:

> Unhappily, the job of abolishing the system and building a new one can't begin so long as we're locked into this infinite busing dispute. No matter what happens with it, the only conceivable winner will be General Motors. They sell the buses. (*Chicago Tribune*, Dec. 7, 1974, 12.)

Brown mandated desegregation and equal educational opportunity. In order to get out of the present morass, we are going to have to develop policies and procedures consistent with the original understanding of that case. Busing obviously is not the answer. One conceivable answer is advanced by Harvard Law Prof. Derrick Bell who suggests:

> Why not designate all predominantly black schools as "magnet schools" and require the court monitored expenditure of funds, assignment of personnel and provision of facilities at least equal to those of the best school in the system?
>
> Prompt compliance would be essential even if it required funding cuts at predominantly white schools. Minimum standards for educational effectiveness would be set and school personnel would be held accountable for meeting them. Programs designed to involve parents in school policy-making and oversight would be a key part of the plan.
>
> White children wishing to attend black schools would be admitted, and blacks could opt to send their children to white schools if they preferred. (*The Boston Globe*, supra.)

I am confident that there are other alternatives which like Professor Bell's place the emphasis where it belongs, on people and on education. The time has come to put the school bus in its proper place, as the servant and not the master of education.

The concept of forced busing to achieve racial balance in the schools is overwhelmingly rejected by the great majority of the American people. Opposition to forced busing has remained constant since its conception in 1971. According to the Gallup Opinion Index of November 1971, 17 percent of the American people favored the concept, while 77 percent opposed it, with 6 percent expressing no opinion. In the May 1975 Gallup Opinion Index, 18 percent favored forced busing, while 72 percent opposed it, with 10 percent expressing no opinion.

This opposition to the court-ordered busing is given tangible form by the flight of white citizens from the cities where court-ordered busing has been forced upon the school districts by the courts. By such action, the courts are creating, by their own mandates, school districts which are more racially distinguishable than they were before the forced busing was instituted.

The importance of education in this country cannot be overstated. Without public support of our educational system, its benefits to the growth of this country will be stifled. The time is long overdue for the Supreme Court to give the same meaning to the 14th amendment for all of our citizens, and to enforce the teaching of Brown I, that no one shall be denied access to the school of their choice on the sole basis of race.

Mr. LONG. Mr. President, will the Senator yield to me at this point?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Louisiana with the understanding I not lose my right to the floor, and with the further understanding that my resumption will not count as a second speech against me.

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

Mr. LONG. Mr. President, has the Senator ever in his experience in the U.S. Senate witnessed a situation where people have used, or attempted to use, a cloture device in order to prevent an amendment that is a matter of prime concern to the American people from ever coming to a vote?

Mr. ROBERT C. BYRD. I do not recall any such experience. I made reference yesterday to the fact that this was a very unique filibuster. I am perfectly willing to be called a filibusterer in this instance, because, as I said yesterday, a rose by any other name smells the same. So the filibuster that I am conducting with the support of those who believe in my amendment—and, by the way, which is cosponsored by various other Senators—is an extended debate to force a vote on the amendment up or down, on the merits of the amendment. It is not a filibuster to prevent the Senate from acting. It is an extended discussion to encourage the Senate to vote on this amendment up or down.

Mr. LONG. Then, am I correct in my understanding that what the Senator is trying to do is to make Senators stand up and be counted on a vital issue that is of the utmost concern to the American people?

Mr. ROBERT C. BYRD. The Senator is eminently correct. I think that the American people are entitled to have a showdown by their elected representatives in the Senate on the merits of this amendment, and not have their representatives hide behind a procedural motion to table which avoids an explanation of how one would stand on the merits of the amendment.

Mr. LONG. Mr. President, I will ask the Senator if he is familiar with any other occasions where those who were managing a bill were so determined that amendments should not be permitted to come to a vote that they would hold out indefinitely, even at the cost of delaying enactment of a bill that they believed to be extremely pressing and important, merely to try to prevent an important amendment from coming to a vote?

Mr. ROBERT C. BYRD. Mr. President, this is a situation sui generis. It is a situation in which those who do not want to vote on this amendment up or down are offering cloture motions, hoping that the Senate will invoke cloture, take me off my feet, and allow a Senator to offer a motion to table this amendment, thus avoiding a showdown on the substance of the amendment.

Mr. LONG. Mr. President, it was always my impression that the purpose of cloture was to enable the Senate to act, to vote on something.

May I express my most supreme disappointment at finding an effort being made by those managing the bill to prevent a vote on an amendment which is germane to an amendment that is already on the bill.

Mr. ROBERT C. BYRD. Exactly.

Now let me say to the distinguished Senator, in response to his inquiry, that on yesterday I sought five times to get a unanimous-consent agreement to vote on my amendment up or down. Five times. The last two requests were made toward the end of the day. All of the requests were objected to.

I asked unanimous consent that, today—this being yesterday—at the expiration of 1 hour under the cloture rule, we vote immediately on my amendment up or down. That is, before the vote on the cloture motion. That was objected to.

Then I asked unanimous consent that immediately following the vote on the motion to invoke cloture which will occur this afternoon, we vote up or down on my amendment, and that was objected to.

So on five occasions yesterday I sought to get unanimous consent to bring this amendment to an up-or-down vote. Last Friday, when I first offered the amendment, I tried at least four times, once to obtain a vote at about 3:30 that afternoon, once to vote at 5 o'clock that afternoon on the amendment up or down—no tabling motion, no opportunity for any Senator to hide behind a procedural motion, but an opportunity for every Senator to take a stand one way or the other. I do not speak with any disrespect toward any Senator if he disagrees with me, but I think the Senate ought to take a stand on this issue, so that the people back home would know where their elected representatives stand on this issue that is becoming an annual heartache and headache to the cities of this country and to the schoolchildren of this country.

Both of those requests were objected to, one that we vote at 3:30 last Friday afternoon and one that we vote at 5 o'clock last Friday afternoon. Likewise, one that we vote at 4 p.m. on Monday, the day before yesterday, and one that we vote at 2 p.m. on yesterday, Tuesday. All four of those requests were objected to.

So at least nine times—there may have been more, but I think that is an accurate count—at least nine times I have sought to give up the floor in exchange for a consent order that would permit an up-or-down vote on the merits of this amendment.

This amendment is purely and simply a busing amendment. It does not go to the assignment of students, it does not go to the assignment of teachers, it does not pertain to colleges; it pertains only to students in the public schools of this country. It would provide that the funds appropriated in this act cannot be utilized by HEW either directly or indirectly to require the transportation of any student to any school beyond his neighborhood school—beyond the school nearest his home—except in instances wherein the student could not pursue the courses of study he desires to pursue at the nearest school.

This is the neighborhood school concept. I am for quality education, may I say to the distinguished Senator from Louisiana, and I know he is for quality education. I am for quality education, but busing children against their will; busing children against the will of the parents, black and white, all over the city, in all kinds of weather; spending tremendous sums of the taxpayers' money to buy buses, buses, buses, to repair buses, to buy accessories for the buses, to buy gasoline—millions upon millions of gallons of gasoline—to transport children against their will to schools that they have never asked to attend, that they do not want to attend, to transfer blacks from one end of the community to the other, just because they are black and for no other reason, to schools miles away, into a hostile atmosphere, and to transfer white children out of their own neighborhoods, miles away, to schools they never asked to attend and do not want to attend, just because they are white and for no other reason—all these things do not add up to a quality education; instead they fly precisely in the face of the 1954 Supreme Court decision, which, in essence, said that no child shall be assigned to any public school solely on the basis of his color.

Yet, that is exactly what is being done today: We are assigning black children to distant schools solely because those children are black, and we are assigning white children to schools out of their neighborhoods simply because the children are white. For the most part, the black children are being transported to schools away from their own neighborhoods, into such hostile environments that the only way they can get into the schools is to walk between two lines of helmeted law enforcement officers and National Guardsmen, and those lines have to be there again when the children come out of school, to protect the children from being attacked, stoned, beaten, and possibly killed. This is the kind of thing our children are being subjected to—hazards to their safety, their limbs, and their lives—to prove what? Not to provide quality education, but to try to support the social theorists who maintain that to provide quality education for black students, it is necessary that there be an arbitrary racial balance in the schools, which the Constitution does not require. And it is an insult to black people to imply that they will not learn unless they are in classes with white students.

It flies in the face of the Constitution, in my judgment, and I do not believe that the people of this country, after having witnessed the failure of forced busing for so many years, and having witnessed the violence that often accompanies it, are willing to longer condone it. I do not condone violence. No one should condone violence. I believe in upholding the law. But the American people are tired of having something crammed down their throats by an individual, whether he sits on a Federal court or downtown at HEW.

This amendment will reach the bureaucrats in HEW and provide that they cannot use taxpayer's money to require, directly or indirectly, the transportation of students beyond their neighborhood schools to bring about an arbitrary racial balance.

Of course, there has to be some busing. Some children in parts of the country live miles away from the nearest school. But forced busing to bring about an arbitrary racial balance in the schools is not required by the Constitution of the United States. It flies in the face of the 1954 Supreme Court decision. It is a tragic waste of the taxpayers' money. It does not bring about quality education. It causes students to have to undergo the trauma of apprehension and fear, and puts them into an atmosphere of hostility in which they cannot study with thoughtful reflection and without fear for their own safety. I think it is cruel to the children of this country; and if we are to believe the polls in this country at all, we have to believe that the majority of the parents in the country, black and white, are against forced busing to bring about an arbitrary racial balance in the schools.

Mr. LONG. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator from Louisiana.

Mr. President, the assignment of pupils to schools today because of their race is as unconscionable, in my judgment, as was the former practice of assigning them to segregated schools because of their race. Moreover, there is not a shred of evidence to suggest that the enforcement of racial quotas in the schools has yet, or ever will, improve our educational system for either blacks or whites. On the contrary, there is much evidence to support the view that our public educational system has been materially weakened by misguided busing programs in its primary responsibility of educating children, black and white.

The school desegregation decision of 1954 in the historic Brown against Board of Education case was right and proper in my opinion, and it has been accepted by most right-thinking Americans. But we should never lose sight of the fact that the U.S. Supreme Court said in that decision that the 14th amendment's equal protection clause makes it unconstitutional to compel children to attend a designated school because of their race. Nothing has changed since then—except that some Federal courts are now requiring children to attend designated schools solely because of the color of their skin.

Overzealous and doctrinaire rulings by lower Federal courts—traceable in part to confusing rulings by the highest bench—and extremism on the part of a few bureaucratic martinets in the Department of Health, Education, and Welfare, have led to the present intolerable situation in which education is being demeaned and debased and children are being pushed around as helpless pawns in a futile ideological power struggle.

The violence that has accompanied court-ordered busing to achieve racial quotas and bring about integration by coercion is in no way to be condoned. But the bitterness on the part of both black and white parents, to say nothing of the frustration of children, is understandable. Busing at best is dubious social experimentation. At worst, it is simply disruptive of normal educative proc-

esses—and that, at an inexcusable cost to inflation-burdened public school systems.

Both children and parents rightly complain that youngsters uprooted from homes and neighborhoods are robbed of their sense of identity and of community, and that nothing is being given them to replace these needed values but lost guidelines and mooring places. All kinds of school activities—from social to athletic—have suffered. An unfortunate generation of children is being asked to make instant social adjustments that generations of their parents and other adults have not yet made.

How much more sensible it would be to use the vast amounts of money that are being wasted on new fleets of buses—and on costly gasoline and oil in our country's energy crisis—to upgrade substandard schools.

But instead of that course of moderation, the cumulative damage to children, schools, and cities has been allowed to spread across the land—and the only wise course now would be for concerned leaders of both white and black races to stand up and brand busing the unmitigated failure that it has proved itself to be. Like the "noble experiment" of prohibition, busing has struck out. Here, if ever there has been one, is a demonstration that judges and bureaucrats, however strongly they may seek to advocate causes dear to them, cannot dictate the course of social development in this country.

Truthfully, much of the Federal establishment looks ridiculous in its efforts to force busing down the throats of unwilling citizens. The Supreme Court has outlawed segregation. The President of the United States has said that he personally does not favor busing to compel racial balance. Yet, his Department of HEW plows ahead with its implementation. And the Army stands by with weapons at the ready to coerce one and all.

What a mad charade we are being treated to. Antiriot police and soldiers riding shotgun on school buses. Cars being overturned and buildings set afire. Heads being cracked and thousands of would-be students staying at home.

Is this education? A generation of children is being scarred by the tension and animosity that charge the learning atmosphere. Schools have become battlegrounds, and children have learned from their experiences to hate. The once happy days of school, the carefree days of childhood, have been turned into a nightmare.

Busing is self-defeating. The only way that it can even seem to be made to work is by ordering it across geographical lines into ever-widening jurisdictions. Judges and HEW autocrats may push little children around—but would they ever dare, even if they had the authority, to order parents to move into alien neighborhoods in order to alter the residential patterns that are the de facto reasons for racial patterns in the schools? The idea is so repugnant in a free society as not even to merit an answer. But it would differ from ordering children around only in the degree of its absurdity.

De jure segregation was one thing—and it should have been cast aside. But de facto social and racial patterns are quite a different thing; and I think the country, and even the most ardent advocates of busing, should now have been convinced that no amount of judicial tinkering and HEW meddling will ever completely and ultimately bring about the racial mix that seems so desirable to the theorists, let alone provide quality education for either blacks or whites. What the artificiality of the school busing situation will produce is further deterioration of city and suburban neighborhoods, further polarization of the races, and further adulteration of the quality of U.S. public school education.

Take the money we are wasting on busing and spend it on the schools. Restore the principle of freedom of choice. Let no school door be closed to any child on the basis of race or color or creed. But let no child in America be forced against its will to attend any school miles from his home simply to satisfy some half-baked social theory or to fill out a phony racial quota.

It is time to end, not a noble experiment, but a stupid and costly exercise in futility.

Mr. President, an AP story has just come over the wire stating that the Federal Sixth Circuit Court of Appeals has affirmed today a landmark 1966 ruling that racial imbalance in schools does not violate constitutional rights as long as the imbalance is not due to purposeful design or intent by a school board. I ask unanimous consent that the wire story be inserted in the RECORD, and I also ask unanimous consent that two recent Washington Post columns by the noted black columnist William Raspberry, be inserted in the RECORD and that a Wall Street Journal column by Vermont Royster be inserted in the RECORD.

The PRESIDING OFFICER. There being no objection, it is so ordered.

DESEGREGATION

CINCINNATI.—A Federal appeals court affirmed today a landmark 1966 ruling that racial imbalance in schools does not violate constitutional rights as long as the imbalance is not due to purposeful design or intent by a school board.

The 2-1 decision by the U.S. 6th circuit court of appeals described as "still vital" its decision in a 1966 case brought on behalf of a pupil named Tina Deal. That decision, which said the Cincinnati school Board was not practicing de facto segregation, has been the basis for determining whether de facto segregation exists in other school systems.

The court did, however, modify one ruling that a U.S. District Court had made in the case at issue—a suit brought by several Black Cincinnati residents in the name of a pupil named Mona Bronson. It said the Bronson plaintiffs should have been allowed to introduce evidence of school system conditions before July 1965, when the Tina Deal case came to trial.

The majority decision, written by Judge Harry Phillips, said this earlier evidence should be considered for background purposes and judged on whether it was relevant to the Bronson case.

In addition, the appellate court amplified the principle of intent in proving a consitutional violation, ruling that segregative intent can be inferred from evidence of racial imbalance with acts of omission by a school board, the natural result of which is to produce a segregated school system.

Judge Paul C. Weick, who dissented, objected that the decision to admit other evidence would reopen all of the issues of the Deal case.

[From the Washington Post, Sept. 12, 1975]

BUSING PROBARLY IS NOT THE ANSWER

(By William Raspberry)

A reader remarks that he was surprised at my recent column questioning the value of large-scale busing. "I wouldn't have thought that you would be opposed to racial integration," he said.

I'm not, of course. I am opposed to bad education, to stupidity and waste, and to inflexible, counterproductive responses to poorly thought out questions.

Busing—at least on the scale being urged by the NAACP—is supposed to perform two primary functions. First, it is supposed to improve the quality of education available to black children, particularly the children of the big city slums.

Second, it is supposed to promote the establishment of an integrated society, a society in which race will no longer be a major consideration.

I have no disagreement with those goals. I simply doubt that large-scale busing is the way to achieve them.

The first goal—improved education—is the important one for me, and my view is that it is a question best faced directly. The integration of the society can be promoted by public policy, to be sure, but I doubt that it is amenable to judicial fiat.

But even in terms of the first goal, some people see racial integration as an important aspect of improved education. It is important, though not indispensable.

If I were in charge of things, I would first make certain that no child would be barred from any school because of his race. That is essentially what the Supreme Court ordered in its 1954 decree.

But I would not merely outlaw segregation; I would introduce policies to promote integration and dismantle policies calculated to separate the races. That is desegregation.

And I would do one thing more: I would make it possible for any child to transfer, on a space-available basis, from a nearby school in which his race is predominant to a more distant school in which his race was in the minority. I would not order it. I would simply permit it, providing transportation where necessary.

Such a policy would differ from present busing plans in several key ways. To begin with, it would not be an imposed plan and would, therefore, not generate the fear-spawned opposition that busing has generated. It would also involve fewer children and, as a result, be less disruptive, less complicated logistically, and less costly.

And it would leave alone those children and their parents for whom integration is not a matter of high priority.

One of the reasons so many people are convinced of the educational benefits (particularly to black children) of racial integration is that they have seen the academic improvement of chilrden whose parents make special efforts to get them into integrated schools.

These special efforts may include anything from budget-straining moves to new neighborhoods, to applications for special exemptions, to outright lies about where they live.

Children who see special advantages in attending a school out of their neighborhood (or whose parents see such advantages) tend to achieve academically. The very fact of the special effort assures that the transfer will be viewed as a positive thing.

But we keep misreading what we see. We see a child (or a family) with strong feelings about education seeking an opportunity to attend a distant, integrated school, and we see an educational payoff. And too often we conclude that it is the fact of the transfer,

rather than the strong feelings and educational ambition, that lead to the academic improvement, and we try to generalize the results by generalizing the transfers.

It rarely works. What often happens is that children involuntarily transferred because of their race arrive at the new school full of fears, insecurities and resentments. In many cases they learn hardly anything at all except how easy it is to buffalo guilt-stricken white teachers or to beat up on white kids.

When this happens, and when whites move farther away in attempt to avoid it, we put the blame on racism or insensitivity but never where it belongs: on the fact that children tend to respond negatively when they find themselves where they'd rather not be.

Of course you can always take the position that integration is too important a goal to be left to the desires of people. You can insist that integration is constitutionally mandated and call upon the courts to order it.

But you ought to be ready with a shopping list of culprits when your well-meant efforts fail to produce improved education, better racial feeling or even integration.

[From the Washington Post, Sept. 10, 1975]

IS THE "BUSING GAME" WORTH THE PRIZE?

(By William Raspberry)

It's hard to know what is the right thing to do now about busing in those cities where antibusing sentiment is so strong as to threaten the public peace.

One can pray that violence will be kept to a minimum; that law enforcement officials will behave professionally, no matter what their private views of the issue may be. One can observe the similarities between white attitudes and actions in Boston and Louisville today and in Little Rock and New Orleans 20 years ago and hope that opposition to busing will melt now as opposition to desegregation melted then.

But the prayers and hopes seem unlikely to produce much by way of positive results, and a lot of us are wondering whether the busing game is worth the prize. Some of us aren't even sure just what the prize is supposed to be.

It was a lot clearer when the issue was whether black children could be shunted off to distant classrooms because nearby schools were designated, officially, if arbitrarily, as white schools.

We may have wondered whether we would have subjected our own children to the taunts and threats of violence faced by, say, the Little Rock Nine. But there did seem to be a clearcut principle at stake: that the public schools should exist for the entire public—that it is discriminatory and wrong to earmark certain schools as black or white.

Now we are being asked to support a different principle: that it is wrong, constitutionally and morally, for a school to be predominantly black even if that fact stems from its existence in a predominantly black neighborhood.

The NAACP, which almost alone is sustaining the drive for wide-scale busing to eliminate predominantly black schools, insists that the principles are the same. It is a view for which support is fast disappearing.

Which is one of the key reasons for widespread pessimism. Many of those who resisted desegregation—the abolition of dual school systems—knew their position to be morally indefensible. And when they finally lost, it was due in large measure to their moral isolation and sense of guilt.

There is no corresponding sense of guilt today. Most whites have long since accepted the notion that segregation is wrong, and even in the Deep South there is hardly such a thing as an all-white school—nor much feeling that there should be.

But on the other hand, precious few whites, North or South, feel any guilt in resisting the disruption of their children's education by busing them to distant schools because those schools are "too black."

Nor is there much more enthusiasm among black parents for large-scale busing for the primary purpose of racial integration.

Not that any of this matters to the NAACP's policy makers. For them the issue is not whether anybody wants busing; it is their view that constitutional considerations require it.

"Constitutional rights are not open to plebiscites and popularity polls," NAACP general counsel Nathaniel Jones recently told the National Observer.

He sees the eradication of racially identifiable schools by which he appears to mean predominantly black schools—as a constitutional mandate to be carried out even if most blacks and whites doubt that it's worth the disruption and ill will that it is certain to spawn. Interestingly enough, those who tell you that the wishes of the people must be subordinated to the mandates of principle generally do so in support of their own wishes.

A very long time ago, the issue was how to improve public education for black children. The presumption, in those days, was that white school officials who insisted on setting aside certain schools for the exclusive use of white children could hardly be expected to care much about the education of black children.

The NAACP, clearly on the right side of that issue, had a major role in the 1964 Supreme Court decision outlawing racial exclusivity. It was a vastly important victory which, in effect, opened neighborhood schools to all neighborhood residents.

But it didn't lead automatically to racial integration, particularly in the North, where the schools remained white or black because the neighborhoods were.

So the NAACP expanded the principle to include not just the dismantling of dual school systems but also the elimination of identifiably black school within unitary systems. A number of courts went along with the expansion.

But that is changing. The Supreme Court, in the Detroit case, held that it's perfectly all right if schools are predominantly black because the school district is predominantly black. Last month, a Detroit judge rejected an NAACP plan that called for busing some 77,000 of Detroit's 260,000 school children in an effort to maximize racial integration. Just as well. The Detroit schools are already about two-thirds black, and the kind of arrangement the NAACP sought almost certainly would have had the primary effect of driving yet more whites out of the city.

The judicial trend may be clear, but so is the NAACP's commitment to busing. And because of the massiveness of that commitment, it may be too much to expect the NAACP to back down at this late date, however counterproductive its efforts may in fact be.

In addition, it is extremely difficult to back down now in the face of the Little Rock-style opposition in Boston, Louisville and elsewhere.

It is a lot easier to wish the current crisis hadn't been forced than to see any reasonable way out of it.

[From the Wall Street Journal, Sept. 10, 1975]

THINKING THINGS OVER

(By Vermont Royster)

SCHOOL DAYS

School days, school days, dear old golden rule days . . . so runs that song of your childhood. But now that school days are once more with us you wonder what rules the children are learning today.

In some schools none at all. No readin', 'riting' and 'rithmetic, with or without a hickory stick. Many school doors are closed because in some dozen states the teachers are on strike.

Meantime in other places the children go to school timidly. They arrive under the watchful eye of policemen set there to ward off angry demonstrations at the schoolhouse door and to protect the children from violence once within. This year add Louisville to Boston and Norfolk and all those other places where the running of the buses has bitterly divided a community.

But maybe the children are learning something anyway, just by watching the grown-ups.

In both these situations the rights and wrongs can get pretty confusing. Those who teach are certainly worthy of a fair wage for their labors. The problem is that those who are taxed to pay those wages often earn less than the teachers' present wage; in these times some of them earn no wages at all. But what the children learn is that grown-ups settle such arguments with naked power, where those who pay adamantly say "no more" and those who demand say "or else".

And while the elders squabble, it is the children who suffer.

So it is with the busing controversy. It is long past time for a school door to be closed to any child because he is black or white or any other color. They are right who cry shame that this once was so and ask not just redress but amends. The problem is that they have some right, too, who cry out against uprooting children from home and neighborhood in the name of exorcising past sins.

Strike what balance you will, the resulting turmoil and anger makes for no happy school days.

Presumably those strikes will be settled ere long one way or another. But there are no signs that the tormenting struggle over school busing is near an end. The bitterness is now so deep it is beyond any easy repair.

Yet if we are to repair it, we need to ask ourselves what it is we really wish to achieve and whether busing school children will achieve it. We might also ask ourselves what else we are doing in the process. Not easy questions because much is obscured in rhetoric.

Those who oppose busing complain that it means long trips for children to and from school. This is certainly something to be avoided if possible, but the fact is that many children have for years had long journeys to school. In some places in the past white children took long bus trips to avoid integrated schools. Once there were no buses at all and children walked miles to school. It didn't seem to hurt Abe Lincoln any.

Those who favor busing, including the judges who ordered these plans, say that schools provided for blacks and other minority groups have been inferior to most white schools. This is indubitably true. But then they say that to remedy this, making them good schools is not enough. The premise of the busing plans is that black students profit simply from sitting in the same classroom with white students, that they can't otherwise have good schools.

This is a dubious proposition at best. Anyway there is ample evidence that many children, white or black, are more comfortable and learn better in familiar surroundings among familiar people. The quality of education is more apt to depend upon the quality of the teachers than the color of the child in the next seat.

But in fact one may doubt now whether a better education for all is any longer the real rationale for the busing plans. The clue is that these plans are drawn on a purely statistical basis. That is, to put so many of each group into each school in proportion to the population mix. The aim is less to correct educational deficiencies than to effect social changes.

So let us suppose that racial imbalances are a bad thing, that all-black or all-white

schools are an abomination regardless of the educational quality of each. If that is the case, what are the causes and what the remedy?

The origin of these racial imbalances in the schools, as everyone agrees, is the residential pattern. People tend to cluster together by ethnic, social or economic groups. Lately the imbalance has been intensified by the flight of white middle-and-upper income groups to the suburbs, a flight caused in part by forced integration through busing.

The result has been to leave the inner-cities, and their schools, more and more populated by minority ethnic groups. This explains why successive busing plans have had to reach out to cover a wider and wider area.

If this be the ill, then the obvious remedy is to change the residential patterns which are its root. If some federal judge would order a certain number of white families to move to an area inhabited primarily by minority groups, and a certain number of minority families to move to a formerly white area, the ill complained of would be readily corrected.

There would then be no more racial imbalances in the public schools. Fleets of buses could be put away and the neighborhood school could resume its traditional place in the community.

No federal judge has done that. None would dare to. Every citizen would rise in outrage, seeing clearly an intolerable violation of a most basic civil right. Only in totalitarian countries does the government say go here and go there and the people acquiesce.

Unless, of course, you are a child. Hardly anyone claims any longer that the purpose of this busing is to improve the educational system. It is defended as a means for social change. That may be a worthy objective, but to put on school children the burden of achieving it, doing unto them what we will not do to ourselves, is a strange way to teach the golden rule.

Mr. BROOKE. Mr. President, much has been said about the refusal to agree to a request by the distinguished Senator from West Virginia for a time certain for a vote on his amendment.

This is an important bill which the Senate is considering. It involves billions of dollars and is the second largest appropriations bill on which the Senate is called upon to act.

The amendments, in the main, that the Senate has considered have been amendments that are not pertaining to an appropriations bill but, for all intents and purposes, have been amendments which in effect are legislation upon an appropriations bill.

The big issue has been the issue of court-ordered busing and related issues pertaining to the general issue of busing. There have been precious few amendments that have been so-called money amendments that go to the core of the appropriations legislation.

Mr. President, the delay in voting on these amendments has been caused by several factors. First is the fact that this issue is a highly emotional issue, one which many Senators do not want to vote upon. Second, it is, in effect, legislation on an appropriations bill. And third there has been a refusal on both sides of this issue to allow the other side to have a vote on certain amendments.

I have proposed to the distinguished Senator from West Virginia, the assistant majority leader, that we do have an up-and-down vote on his amendment. I think he is entitled to an up-and-down vote on his amendment. It is a very serious amendment.

Although it addresses the question of busing it certainly is not an amendment to which a point of order would lie.

The Senator is certainly within his rights to offer such an amendment, and there is strong support in the Senate for his amendment.

But, Mr. President, we had hoped, and I say "we" now speaking in my capacity as the ranking minority member of the subcommittee which has the responsibility of floor management of this bill, that we could dispose of certain so-called money amendments and other substantive amendments not relating to the general issue of busing.

I did propose to the distinguished Senator from West Virginia that we consider those money amendments together with his amendment prior to a cloture vote.

The most recent proposal was made this afternoon, when I proposed to the distinguished Senator from West Virginia that the Senate consider his amendment at 2 p.m., or shortly thereafter, that there be an up-and-down vote on the Senator's amendment, and that, following disposition of that amendment, the Senate consider amendments to be offered by the distinguished Senator from Kansas (Mr. DOLE), which is a money amendment, the distinguished Senator from Wisconsin (Mr. NELSON), which is a money amendment, the distinguished Senator from North Carolina (Mr. MORGAN), which is a money amendment, the distinguished Senator from Alabama (Mr. ALLEN), which is a money amendment, and finally another amendment by the distinguished Senator from West Virginia, which is a substantive amendment to the bill concerning the subject of OSHA. And that following disposition of those amendments, and any other money amendment or substantive amendment, that the Senate then vote on the cloture motion, which has been filed with the clerk.

Mr. President, much has been made by discussion in the Chamber today, and at other times, that it was my purpose to keep the Senator from West Virginia from having a vote. Mr. President, such discussion is not accurate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BROOKE. Yes.

Mr. ROBERT C. BYRD. The Senator knows I have never referred to him personally in my statement.

Mr. BROOKE. That is correct. I certainly accept the Senator's explanation. Nor did I intend to infer that the distinguished Senator from West Virginia, my colleague and dear friend, has ever referred to me as having wanted to deny him a vote on his amendment. But there have been inferences made in the Chamber that there was an attempt to deny the Senator's right to have an up-and-down vote on his amendment.

That could have been true. I would not deny, if I felt that way about it. I certainly would not be above or below making such an attempt, if in fact it would defeat the purpose for which we have been debating for now some 5 or 6 days.

But the fact is that I do want to see the Senator have a vote, and this is not the first attempt, Mr. President, to enter into a unanimous-consent agreement, whereby the Senator would have an up-and-down vote on his amendment.

Mr. President, I am very much concerned about this legislation. I feel that the Senate has already accepted a very bad piece of legislation in an amendment which has been offered by the distinguished Senator from Delaware (Mr. BIDEN), an amendment which I feel, if allowed to remain, would cause serious injury to title VI of the 1964 Civil Rights Act. I do not believe that even the Senator from Delaware, the proponent of the amendment, understands how serious the consequences of his amendment would be. It would not affect court-ordered busing, Mr. President, but the whole area of civil rights if it is allowed to become law.

Many Senators, in discussing this issue on the floor, have talked about equal justice under the law and equal educational opportunities. Yet, at the same time, they would support an amendment such as that which was offered by the Senator from Delaware.

But, Mr. President, what good is a right without a remedy? The effect of the Biden amendment would be to deprive anyone with a right under the Civil Rights Act to the remedy which is provided in title VI of the Civil Rights Act.

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

Mr. BROOKE. I yield.

Mr. PASTORE. Would the so-called Biden amendment vitiate the plans already in place and working well?

Mr. BROOKE. It is my understanding that it would. That, in itself, would be a great tragedy, because many plans are working well. We read about certain plans that are not working well, where there might be some controversy or where groups are attempting to keep the plan from working. But we do not talk about the many plans that are working across the country, where there is no violence, and where groups and communities have come to accept this as the right—the equal right, the equal opportunity—of all citizens.

So the effect of the Biden amendment, as the Senator from Rhode Island has asked the question, would vitiate, in effect, that which has already been done and that which is being done well.

Mr. PASTORE. The reason why I am quite concerned about all this is that when the substantive legislation was before the Senate, it was I who had the privilege of managing the so-called title VI.

Mr. BROOKE. That is correct.

Mr. PASTORE. This would render title VI impotent, would it not?

Mr. BROOKE. It would make title VI null and void.

Mr. PASTORE. So it would bring us right back to where we started.

Mr. BROOKE. Right back to where we started in 1965.

I was not a Member of the Senate, but I recall reading of the distinguished Senator from Rhode Island's management of that bill—truly a historic landmark in the history of the United States. It was

historic for the Senate, yes, but also for our Government and for its people. I believe that even people who are opposed to court-ordered busing still respect and hail the 1964 Civil Rights Act, which would be adversely affected if the Biden amendment were allowed to become law.

Mr. HELMS. Mr. President, will the Senator yield for a question?

Mr. BROOKE. I yield.

Mr. HELMS. Is the Senator aware of any public opinion poll showing the attitude of the American people toward forced busing? Let me put it another way: Is the Senator aware of any poll that indicates that a majority of the American people favor or disfavor forced busing?

Mr. BROOKE. I am not aware of any poll which shows that the majority of the American people favor or disfavor forced busing. I am, however, aware that there are many people in this country, if not a majority, a great number of people in this country—as has been said by the distinguished Senator from West Virginia in his arguments—black and white, who are not in favor of forced busing.

I do not interpret the Supreme Court's decision to say that there must be widespread busing—as has been claimed on the floor of the Senate—for the balancing of public schools. This is a red herring. No court has ordered the balancing of races in public school systems. As I understand the Supreme Court decision—I have read it, read it, and reread it, and I think I understand it well—the Supreme Court has said that busing is a constitutional tool that can be used in order to bring about the desegregation of public school systems that have been segregated by official act—not by racial, residential patterns or anything of that nature, not to balance one race with the other race. But when public officials deliberately segregate public school systems in this country, the Supreme Court has held that it is unconstitutional. And I believe it is morally wrong as well. And the Supreme Court has said that busing is a tool that can be used to remedy constitutional violations.

The distinguished Senator from Kentucky is in the Chamber at the present time. The court ordered busing in Louisville, Ky., was a last resort. That Federal district court judge did not go out of his way to order busing. Judge Garrity, of Boston, did not go out of his way to order busing. Judge Garrity is opposed to busing, does not like busing. But Judge Garrity is a man of law. He reads the law, and he read the Supreme Court decision, and he found that that school committee would not desegregate that public school system by any other means, and the only option left to him was to order busing.

HEW has many options it can use prior to a court-ordered busing plan. The Federal District Court sitting in Boston, Mass. for example, in what is now a very celebrated if not famous—or infamous—case, certainly went to great lengths to give the Boston school committee more than ample opportunity to work out a plan to desegregate the public school system in the city of Boston, which they had segregated by design. The court gave that committee ample opportunity to use any method they could, other than busing, to bring about that desegregation. It was only after the school committee blatantly refused to desegregate that school system, to submit any plan which would have included the assignment of pupils, magnet schools, or many other ways of bringing about desegregation—that the court went to the last resort; and the last resort was busing.

This has been true time after time across the country. It happened in the South, where my distinguished colleague lives and represents the State of North Carolina. It happened in Mississippi. It happened in Georgia. Why can it not happen in Louisville, Ky., and Boston, Mass.? Why should one part of the country obey the law and another part of the country not obey the law?

I cannot understand the logic, the rationale, the justice of that argument. I just cannot accept it.

Mr. HELMS. Let me return to my question. Is it not a fact, I ask the distinguished Senator, that every public opinion poll has shown that anywhere from 75 percent to 86 percent of the American people are unalterably opposed to forced busing, including blacks and whites? Perhaps there is another poll that I have not seen.

Mr. BROOKE. I do not know how the question was put in these polls, but I do not think the Senator would suggest that the Bill of Rights would be supported on the basis of a public opinion poll.

Mr. HELMS. It cannot be cut that fine.

Mr. BROOKE. I do not know that it cannot.

Mr. HELMS. I think a child has a constitutional right not to be forced across a city or a county.

Mr. BROOKE. Let us lay to rest, for once and all, the question of busing.

Mr. HELMS. That is what the Senator from North Carolina wants to do.

Mr. BROOKE. There has been more busing for the purpose of segregation in this country than there ever has been or will be for the purpose of desegregation.

Second, I want to give the Senator another statistic: 40 percent of the American schoolchildren ride to school on a bus every day. Another 25 percent of the American schoolchildren go to school on public conveyances. That means 65 percent of the American schoolchildren are transported to and from school every day. That leaves only 35 percent who actually walk to school.

I can understand that parents, black or white, would rather have their children go to a school within walking distance. But I am saying to the Senator that we have found that many schools in this country—it was not easy to find, but after great labor it was found—had been segregated because of race.

Even in my own capital city of Boston, we would find that there was a white high school and a housing project which was 90 percent black, practically right next to it, and that in that white high school, there was not one black child, that the black children were being bused from that housing project to a black community where they could atteend black schools. I am sure that the Senator will find that, in North Carolina, the same sort of situation exists, that black children have, for years and years, been bused past white schools to black schools in order to get an education in a segregated school system.

The court has found that that is wrong. The Senator must realize that that is wrong. It is morally wrong; it is constitutionally wrong.

All the courts have been trying to do is say that it is unconstitutional. Where we find it, we have to find some means of bringing about desegregation and, after everything else has failed, busing can be used as a constitutional tool. I do not think the courts have been wrong. I think the courts have made the correct decision.

Mr. HUDDLESTON. Will the Senator yield?

Mr. BROOKE. Yes, I am glad to yield.

Mr. HUDDLESTON. I hope the Senator from Massachusetts will not in any way misrepresent the situation as it may be in Kentucky.

Mr. BROOKE. Right.

Mr. HUDDLESTON. It is the truth that this case had been in the courts there for some time. However, in Jefferson County and in Louisville, there were two separate districts, a city district and a county district.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired. The Senator from West Virginia has 8 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Massachusetts 3 minutes.

Mr. BROOKE. Fine. I yield it to the Senator from Kentucky.

Mr. HUDDLESTON. The State required that these districts merge, which brought together two districts comprising now a new, very large district—135,000 students, which is considerably larger than the Boston district, for instance.

On the heels of that, before these districts in the merged district had any opportunity at all to consider the problem, there came the Sixth District Circuit Court's order that a busing plan must be implemented by the start of the school year, September 4, about a month away.

Mr. BROOKE. Will the Senator yield?

Mr. HUDDLESTON. I yield.

Mr. BROOKE. Does the Senator know how long the court had waited for the plan to be submitted from the school district before implementation of the plan?

Mr. HUDDLESTON. There was no way that the school district could submit a plan during this period of time, because it only became a school district a scant few days before. Prior to that, it had been two districts, both the Louisville and the Jefferson County School District.

So the new district, the one Jefferson County school district, never had an opportunity to sit down and even contemplate how they would, together, relieve this situation which the court said was in fact a segregated school situation.

Mr. BROOKE. Will the Senator yield?

Mr. HUDDLESTON. I yield.

Mr. BROOKE. I have no knowledge of this, but I am wondering, was the joining of this school district for the purpose of circumventing a court order which had been directed at the separate school districts?

Mr. HUDDLESTON. No. It was just the opposite. They were joined in order to try to reach some solution to a situation that had developed where the Louisville district had in fact become predominantly a black district, the downtown, inner city of Louisville. It was recognized that the only way to achieve balance was to combine the two districts. At first, it had been thought that this could be approached from the standpoint of inter-district busing, but the Detroit decision changed that situation to some extent.

So here, we were faced in Louisville without an opportunity to see whether or not redistricting the boundaries of the various schools might, in fact, eliminate this imbalance. We were faced with going into a busing program within a month's time.

The PRESIDING OFFICER. The Senator's 3 minutes have expired. The Senator from West Virginia has 5 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 additional minutes to the Senator from Kentucky.

Mr. HUDDLESTON. I thank the Senator.

While I am firmly convinced that a forced busing plan to achieve some kind of racial balance—and I think this is important—we are not really talking about busing, because students have been bused from time immemorial. And I do not think we are really talking about segregation. We are talking about degree, about a balance, about a percentage of black and white students that has to be achieved in every school and district. While I believe this is a wrong approach, this is an improper remedy, I must say that I do believe that in nearly every case where this has occurred, the school boards could have avoided it through proper action.

In the case of the city of Louisville, the Federal district judge on the scene has said that some 2 years ago, when the suggestion was that a couple of schools be closed, if this had been done, there never would have been a suit, it never would have gotten into court, and enforced busing would not have occurred. Those two schools were in a black district, in a black neighborhood, attended by black children. The black people were the ones who opposed the closing. This was their neighborhood school, they did not want it closed down and then have to be transported to another school.

So we can get into all kinds of complicated situations. Forced busing as a viable remedy seems to me to have been disproved by now as being the best way to accomplish it. I think there are other ways and that those ways can be used.

I am not convinced that, as the Senator from Massachusetts says, the courts have, in every case, explored every other avenue before making a decision on busing.

Mr. BROOKE. If the Senator will yield, I have great respect for the Senator from Kentucky. I think he knows that. I think he is eminently fair in saying, and I agree, that the boards of education have just not done their job and I think busing should be a last resort. I have always said that. And I do not believe that we should have widespread busing when other means will bring about the desegregation of the school system.

Mr. HUDDLESTON. On that point, I agree that we ought to try harder before we get to busing.

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

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Massachusetts has referred to the days when black children were bused out of their own neighborhoods and away from the closest school to so-called black schools miles distant from their homes. He has stated that that was morally wrong. I agree with him. In those days, however, it was constitutional. According to the holdings of the Supreme Court in those days, segregation in public schools was required. The laws of the States required such segregation of the races in the schools. So the people were obeying the Constitution as it was then interpreted by the highest Court of the land, and they were obeying the laws of their respective States. "Separate but equal" was the law of the land.

Now that has been changed. The highest Court, in 1954, in the Brown case, changed all of that. It said that no child could longer be assigned to any public school solely on the basis of its race. That was the right decision, morally and constitutionally, in my opinion.

But, Mr. President, to bus black children today away from their nearest school to another school miles distant just because they are black and only to bring about a so-called racial balance is also morally wrong. To bus white children today, just because their skins are white, away from their neighborhood school, miles away, in all kinds of weather, at tremendous cost, is also wrong. Two wrongs do not make a right.

It was wrong to transport black children away from the nearest school in those days, but constitutionally, it was in accordance with the requirements of the Federal Constitution and State laws as they were then construed. It is just as wrong today to assign children on the basis of color and bus them all over creation. I say two wrongs do not make a right.

ADDITIONAL STATEMENTS SUBMITTED IN CONNECTION WITH SENATOR ROBERT C. BYRD'S AMENDMENT

Mr. TAFT. Mr. President, experience over the past 23 years since the Brown decision has demonstrated that transporting schoolchildren abnormal distances has not worked effectively to achieve the goals sought, especially the goal of achieving quality education for all. Because this is true, I have stated uniformly that other methods of achieving this goal should be sought by the Congress and by the courts. An examination of the practical educational effects of busing would in many instances justify modification of the Brown decision insofar as it applies to busing.

Such a modification, however, clearly should not permit the school authorities responsible for establishing transportation plans or maintaining transportation plans designed to promote or perpetuate segregation in the schools. If they went that far it is the unfortunate likelihood that some authorities would avail themselves of that opportunity. It would seem possible that because of residential patterns such a plan in some cases could be based upon the requirement that no child shall be transported beyond the school closest to his residence.

The question raised by the Byrd amendment is whether, if the courts should not permit such a plan, should HEW be prohibited from using funds to prevent school authorities from establishing or maintaining such a plan? I believe it is clear that it would be unwise as it could force many court cases that might otherwise be avoided. It would also impose an unconstitutional limitation on HEW.

For these reasons I am voting against it.

Mr. ROTH. Mr. President, I applaud the language contained in the perfecting amendment which was offered on Friday by the distinguished assistant majority leader, Mr. BYRD of West Virginia.

The amendment states that none of the funds contained in this act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964.

Mr. President, it is time the use of busing as a tool to force integration of our schools be put aside. As an experiment, it has failed and failed miserably.

Schools are being used for the wrong purpose. Schools and schoolchildren should not have the burden of becoming the prime testing ground for experimentation for the sake of social reform. Schools have a purpose. That purpose is to provide quality education. Teachers should be allowed to have an atmosphere conducive to teaching. Children must have an atmosphere conducive to learning.

Reading, writing, and arithmetic are just as important today as ever before. If not, more important. The system, through no fault of the teachers and the students, is failing and failing badly. The blame lies with the phenomenon known as busing. Busing is expensive. Busing is disruptive. Busing is time consuming. Busing is wasteful. Busing is a strain in every conceivable way.

The results of busing are always framed in negative terms. The positive results are negligible or nonexistent because quality education is the victim of busing. Quality education has been on the decline since busing has been on the incline. The relation is direct.

Quality education is not available to our children. Busing is taking its toll. Our children deserve better.

Schoolbusing—forced busing—mandatory busing—quotas—and the like are playing havoc in our schools and with

our children. We must return to reason and sanity. We must return to some basic principles that call for the best in quality education. This cannot be achieved through the helter-skelter mechanism of forced busing. Busing, for the sake of busing, is the major obstacle preventing a return to a sound, quality educational system throughout this country. Our schools, the teachers, and, especially, the children deserve the best that this Nation has to offer.

It is wrong for the Federal Government, through the use of Federal funds and other coercive means, to ride roughshod over the wishes of the parents of our schoolchildren by forcing their children to be bused to schools outside of their neighborhood. As I have said since I have been in the Congress, the answer to our school problems lies in quality education rather than in the breakup of our neighborhood schools. Busing has done more harm than good. It has not worked and it should be abandoned now.

I have recently introduced legislation creating a National Commission on School Busing to examine the effects of mandatory busing, investigate alternatives and determine the most effective legislative action that should be taken. The Commission would be empowered to hold hearings, take testimony, and issue subpenas for the appearance of witnesses and the production of documents necessary to its investigations. Specifically, the Commission—consisting of 15 members appointed by the President from educators, parents, and other qualified persons—would be authorized to examine the educational effects of federally ordered schoolbusing, investigate possible alternatives to such plans, and determine the feasibility of legislative action—including a constitutional amendment. The Commission would be required to submit its final report to the President and Congress, together with its recommendations, not later than March 1, 1976.

We need this kind of Commission if we are to acquire sufficient information to meaningfully assess current Federal policies with regard to school desegregation. The courts and Federal agencies have too long made policy in this area on the basis of their best guess as to the relevant educational considerations and current social theories which have proved so unreliable and unrealistic over the tests of time. We must thoroughly reexamine the logic of those policies which have propelled the law of the land in a boomerang course from its laudable point of departure in Brown. Only in this way can we resolve once and for all the troublesome and divisive problem of forced busing and get on in earnest with the task of providing the best education for all our children.

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate having expired, pursuant to rule XXII the clerk will state the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon H.R. 8069, the Labor-HEW Appropriations Bill for 1976.

Edward W. Brooke, Charles McC. Mathias, Jr., Richard S. Schweiker, Mike Mansfield, Robert T. Stafford, Gale W. McGee, Lowell P. Weicker, Jr., Mark O. Hatfield, Hugh Scott, Alan Cranston, James B. Pearson, Clifford P. Case, Edward M. Kennedy, Mike Gravel, Walter F. Mondale, Gary Hart.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to Rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 72]

Allen	Hart, Gary W.	Pearson
Baker	Helms	Ribicoff
Brooke	Huddleston	Scott, Hugh
Bumpers	Laxalt	Sparkman
Byrd, Robert C.	Leahy	Stennis
Church	Magnuson	Symington
Culver	Mansfield	Taft
Eastland	McClure	Thurmond
Ford	McGee	Tunney
Glenn	Muskie	

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Abourezk	Garn	Montoya
Bartlett	Goldwater	Morgan
Bayh	Gravel	Moss
Beall	Hansen	Nelson
Bellmon	Hartke	Nunn
Bentsen	Haskell	Packwood
Biden	Hatfield	Pastore
Brock	Hathaway	Pell
Buckley	Hollings	Percy
Burdick	Hruska	Proxmire
Byrd, Harry F., Jr.	Humphrey	Randolph
	Inouye	Roth
Case	Jackson	Schweiker
Chiles	Javits	Scott, William L.
Clark	Johnston	
Cranston	Kennedy	Stafford
Curtis	Long	Stevens
Dole	Mathias	Stevenson
Domenici	McClellan	Stone
Durkin	McGovern	Talmadge
Eagleton	McIntyre	Tower
Fannin	Metcalf	Weicker
Fong	Mondale	Young

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from Michigan (Mr. GRIFFIN) is absent on official business.

The PRESIDING OFFICER. A quorum is present.

The PRESIDING OFFICER. (Mr. LAXALT). The question is, Is it the sense of the Senate that debate on H.R. 8069, a bill making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, shall be brought to a close? The yeas and nays are mandatory under the rule.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 3 minutes for the purpose of proposing a unanimous consent request.

The PRESIDENT OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, I could not hear the unanimous-consent request.

Mr. ROBERT C. BYRD. That I be permitted to proceed for 3 minutes for the purpose of proposing a unanimous-consent request.

Mr. HELMS. No objection, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

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

Mr. ROBERT C. BYRD. May we have order?

The PRESIDING OFFICER. May we have order?

May we have order so the Senator can be heard?

Will Senators please take their seats?

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1976

The Senate continued with the consideration of the bill (H.R. 8069) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, as Senators know, my amendment goes to the subject of busing and it would preclude HEW from using any moneys, to require directly or indirectly the transportation of any student beyond the school nearest that student's home, except in a case where he would need to pursue courses that are not offered at the nearest school. So it is strictly a busing amendment, it is a fuel-saving amendment, it is a gasoline-saving amendment.

I ask unanimous consent, Mr. President, that there be an up or down vote on this amendment immediately, with no intervening motion whatsoever in order; that immediately following the vote on this amendment the Senate then proceed to the consideration of various amendments that have nothing to do with busing, or desegregation, or integration, or resegregation, or assignment of students or teachers, et cetera, with a time limitation on each of those amendments of not to exceed 40 minutes, the time to be equally divided between the author of the amendment and the manager of the bill, except in instances where the man-

ager of the bill supports the amendment in which event the distinguished Republican leader or his designee (Mr. BROOKE) have the time in opposition thereto; and that immediately upon the disposition of all such amendments the Senate then proceed to vote on the motion to invoke cloture.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, does the Senator's unanimous-consent request preclude any motion other than a motion to table his amendment?

Mr. ROBERT C. BYRD. No intervening motion would be in order prior to the vote on the Robert C. Byrd amendment.

Mr. HELMS. That I understand, but thereafter?

Mr. ROBERT C. BYRD. Thereafter——

Mr. HELMS. He does not address himself to any motion?

Mr. ROBERT C. BYRD. Thereafter, no motion or amendment pertaining to busing, et cetera, et cetera, would be in order until such time as all extraneous amendments dealing with money, OSHA, et cetera, are disposed of, after which there would be a vote on the motion to invoke cloture, and then following that the Senate would resume consideration of any busing amendments.

Mr. HELMS. Mr. President, again reserving the right to object, I see no point in delaying a vote on cloture. The cloture motion was filed with unanimous consent, the time of the vote was set, Senators are here, and I feel that we should vote on the cloture motion at this time.

The PRESIDING OFFICER. Is there objection

Mr. HELMS. I object.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, let me try once again. I ask unanimous consent to proceed for 2 additional minutes.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote occur now on my amendment, with no intervening motion in order, and that immediately after that vote the vote occur then on cloture, that immediately after that cloture vote the Senate go to all extraneous amendments with the half hour limitation on each and with no busing amendment in order.

Mr. HELMS. The cloture vote will follow, then?

Mr. ROBERT C. BYRD. The Senator objected to my first request. I am making a new request that would allow the cloture vote to immediately follow the vote on my amendment up or down.

Mr. HELMS. I have no objection.

Mr. BROOKE. Reserving the right to object, does the Senator have no objection to the cloture vote following immediately on the heels of the Byrd amendment but does object to having the cloture vote follow on the heels of the Byrd amendment followed by the money amendments, so-called?

Mr. HELMS. That is correct. I think the Senate ought to vote on cloture now.

Mr. BROOKE. After the Byrd amendment?

Mr. HELMS. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. BROOKE. No objection.

The PRESIDING OFFICER. Hearing none, it is so ordered. The clerk will call the roll.

Mr. ROBERT C. BYRD. Will the clerk read my amendment, Mr. President?

The PRESIDING OFFICER. This vote is on the amendment of the Senator from West Virginia.

The legislative clerk read as follows:

On page 1, line 2, strike all after the word "used" and insert in lieu thereof the following: "to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964.".

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON ROBERT C. BYRD AMENDMENT

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. May we have order, Mr. President?

The PRESIDING OFFICER. Will the Senate please come to order? Will the Senators please clear the well and take their seats?

The clerk will suspend until we have order.

The clerk will proceed.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Michigan (Mr. HART) is absent because of illness.

I further announce that, if present and voting, the Senator from New Jersey (Mr. WILLIAMS) would vote "nay."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Michigan (Mr. GRIFFIN) is absent on official business.

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 411 Leg.]

YEAS—51

Allen	Dole	Hruska
Baker	Domenici	Huddleston
Bartlett	Eagleton	Jackson
Beall	Eastland	Johnston
Bentsen	Fannin	Laxalt
Biden	Fong	Long
Brock	Ford	Magnuson
Buckley	Garn	Mansfield
Bumpers	Goldwater	McClellan
Byrd, Harry F., Jr.	Hansen	McClure
	Hartke	Morgan
Byrd, Robert C.	Haskell	Nunn
Chiles	Helms	Proxmire
Curtis	Hollings	Randolph
Roth	Stennis	Thurmond
Scott, William L.	Stone	Tower
	Symington	Young
Sparkman	Talmadge	

NAYS—45

Abourezk	Hathaway	Nelson
Bayh	Humphrey	Packwood
Bellmon	Inouye	Pastore
Brooke	Javits	Pearson
Burdick	Kennedy	Pell
Case	Leahy	Percy
Church	Mathias	Ribicoff
Clark	McGee	Schweiker
Cranston	McGovern	Scott, Hugh
Culver	McIntyre	Stafford
Durkin	Metcalf	Stevens
Glenn	Mondale	Stevenson
Gravel	Montoya	Taft
Hart, Gary W.	Moss	Tunney
Hatfield	Muskie	Weicker

NOT VOTING—4

Cannon	Hart, Philip A.	Williams
Griffin		

So Mr. ROBERT C. BYRD's amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON CLOTURE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate upon H.R. 8069, an act making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

The PRESIDING OFFICER. May we have order in the Chamber?

Will Senators kindly take their seats and refrain from further conversation in the Chamber?

We are going to suspend this vote until we have order in the Chamber.

The clerk will proceed.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from Michigan (Mr. GRIFFIN) is absent on official business.

The yeas and nays resulted—yeas 64, nays 33, as follows:

[Rollcall Vote No. 412 Leg.]

YEAS—64

Abourezk	Clark	Hatfield
Bayh	Cranston	Hathaway
Beall	Culver	Hollings
Bellmon	Durkin	Huddleston
Biden	Eagleton	Humphrey
Brooke	Fong	Inouye
Bumpers	Ford	Jackson
Burdick	Glenn	Javits
Byrd, Robert C.	Gravel	Kennedy
Case	Hart, Gary W.	Leahy
Chiles	Hartke	Magnuson
Church	Haskell	Mansfield

Mathias	Packwood	Stevens
McGee	Pastore	Stevenson
McGovern	Pearson	Stone
McIntyre	Pell	Symington
Metcalf	Percy	Taft
Mondale	Randolph	Tunney
Montoya	Ribicoff	Weicker
Moss	Schweiker	Williams
Muskie	Scott, Hugh	
Nelson	Stafford	

NAYS—33

Allen	Fannin	Nunn
Baker	Garn	Proxmire
Bartlett	Goldwater	Roth
Bentsen	Hansen	Scott, William L.
Brock	Helms	Sparkman
Buckley	Hruska	Stennis
Byrd, Harry F., Jr.	Johnston	Talmadge
Curtis	Laxalt	Thurmond
Dole	Long	Tower
Domenici	McClellan	Young
Eastland	McClure	
	Morgan	

NOT VOTING—3

Cannon	Griffin	Hart, Philip A.

The PRESIDING OFFICER. On this vote there are 64 yeas and 33 nays. Three-fifths of those duly chosen and sworn, having voted in the affirmative, the cloture motion is agreed to.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1976

The Senate continued with the consideration of the bill (H.R. 8069) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The PRESIDING OFFICER. Each Senator now has 1 hour.

Mr. ROBERT C. BYRD. Mr. President, the agreement was that immediately following the cloture vote, the Senate would go to the extraneous amendments, with a 30-minute limitation on each. Am I correct? Under the order entered prior to the vote on my amendment, it was agreed that upon the disposition of the cloture vote—with no condition as to its outcome—the Senate would go to the extraneous amendments with a time limitation on each of 30 minutes.

The PRESIDING OFFICER. We need a clarification for the record.

The Journal record indicates that the Senator from North Carolina objected. It is the recollection of the Chair that the original objector then waived his objection, so we arrive at the unanimous-consent agreement.

Mr. ROBERT C. BYRD. The Chair is correct.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. Mr. President, I understand the parliamentary situation to be that, at long last, we will get down to the real meat of the bill before the Senate—$39 billion of appropriations for HEW. As I understand the situation now, the bill is open to amendment on the money portions.

AMENDMENT NO. 917

Mr. DOLE. Mr. President, I call up amendment No. 917, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an amendment numbered 917, as modified.

The amendment is as follows:

On page 10, line 6, change the figure "$118,221,000" to "$123,221,000".

On page 10, line 7, strike the words "not to exceed" and change the figure "$5,000,000" to "$10,000,000".

On page 10, line 8, after the subsection designation "(1)", insert "or section 18(b)".

On page 10, line 10, after the code subsection designation "(1)" insert "or 667 (b)".

Mr. DOLE. Mr. President, in the interest of time, I shall take only 1 or 2 minutes on this amendment, because I believe it will be acceptable to the distinguished floor managers, Mr. MAGNUSON and Mr. BROOKE. Moreover, we had a rather thorough and, I think, useful discussion last Thursday on the need for increased emphasis in the area of consultation services under the Occupational Safety and Health Act.

Normally, I would not consider submitting a modified version of an amendment which had been defeated the week before. In this case, however, I think the opportunity we have is too important to pass up.

What this amendment would do, very simply, is to add $5 million to the overall OSHA appropriation for the specific and limited purpose of increasing State-administered consultation services. In addition, it would expand the availability of the resulting $10 million total in the bill for consultation by allowing either section 7(c)(1) or section 18(b) State programs to qualify—provided, of course, with regard to the latter, that the particular State plan include such an assistance function apart from its enforcement effort.

Mr. President, during the consideration of my earlier amendment No. 880, this type of compromise was suggested whereby an amount would be tacked onto the general OSHA appropriation and earmarked for consultation activities without taking anything away from the $10 million stipulated for new federal compliance officers. I rejected that offer because of my reluctance to add any more money to this already inflated bill, and because of my concern that such an arrangement would really not represent the genuine shift in emphasis which I felt was desirable.

Recognizing that the support is not there for the substitution or transfer contemplated by my original amendment, however, I have sought to accommodate the views of those who advocate more consultation without directing any attention away from the enforcement effort itself. In addition, I have, as I indicated, expanded the scope of this new amendment to make all 50 States eligible in one way or another for the consultation money which it provides.

Mr. President, I shall not take time to clarify each State's present or possible involvement, but have prepared a chart for each Senator to show him how his State qualifies. For the convenience of my colleagues, Mr. President, I ask unanimous consent that this breakdown be printed in the RECORD.

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

OSHA STATUS REPORT ON STATE CONSULTATION AND/OR ENFORCEMENT AGREEMENTS

Sec. 7(c)(1) consultation agreements	No consultation arrangements whatever (but eligible under either section)	18(b) enforcement agreements (could not benefit from 7(c)(1) but States can earmark for consultation if want to)
1. Arkansas.	1. Alabama.	1. Alaska.
2. Delaware.	2. Florida.	2. Arizona.
3. Kansas.	3. Georgia.	3. California.
4. Massachusetts.	4. Idaho.	4. Colorado.
5. Mississippi.	5. Illinois.	5. Connecticut.
6. Nebraska.	6. Louisiana.	6. Hawaii.
7. New Mexico.	7. Maine.	7. Indiana.
8. New York.	8. Missouri.	8. Iowa (begins in October).
9. Ohio.	9. Montana.	9. Kentucky.[1]
10. Oklahoma.	10. New Hampshire.	10. Maryland.
11. Texas.	11. New Jersey.	11. Michigan.
12. Virginia.	12. North Dakota.	12. Minnesota.[1]
13. West Virginia.	13. Pennsylvania.	13. Nevada.
14. Wisconsin.	14. Rhode Island.	14. North Carolina.
	15. South Dakota.	15. Oregon.[1]
		16. South Carolina.
		17. Tennessee.
		18. Utah.[2]
		19. Vermont.[1]
		20. Washington.[1]
		21. Wyoming.

[1] Has consultation program in effect.
[2] Has 18(b) arrangement but not being implemented.

Mr. DOLE. Mr. President, under the terms of my new amendment, the remaining States which presently have section 18(b) enforcement agreements in operation could also benefit from any additional consultation money by establishing a State plan and by their own decision earmarking some of the Federal funds for separate consultation activities. I am informed that the States of Tennessee and Kentucky have taken the lead in doing just that—with Oregon, Washington, Minnesota, and Vermont also taking steps in that direction.

Unfortunately, funding limitations have restricted the Minnesota and Vermont programs to three and five persons, respectively. I firmly believe that if this amendment were adopted, the OSHA administrators might be amendable to increasing—through legislation or otherwise—the present 50–50 Federal match, thereby encouraging those and especially 7(c)(1) States to come in with greater participation.

Mr. President, I believe this is a good amendment which should have the support of every Member of this body in what it seeks to accomplish. Only those who simply cannot consciously endorse any more additions to this bill might feel compelled to vote against it.

I can certainly appreciate that concern, which I share myself, and would by all means avoid the necessity for doing so if there were another way to successfully augment the consultation concept. In any event, I think we need to focus our attention on this vitally important matter without further postponement, and it is in that spirit which I offer this compromise language today.

Again, this amendment simply adds $5 million for consultation while stipulating that the resulting $10 million total can be used for no other purposes. Twenty States presently have some sort of consultation program in operation, and it

is my hope that with this additional money, even more will take advantage of the opportunity to provide this much-needed service.

The amendment has been discussed at some length with the Senator from Massachusetts (Mr. BROOKE) and the Senator from Washington (Mr. MAGNUSON), and I would hope their reaction to it might be favorable. In any event, I yield the floor for any observations they may wish to make, reserving the remainder of my time.

Mr. MAGNUSON. Mr. President, during the last 3 or 4 days, when we were on other matters, we discussed this proposal at some length with the Senator from Kansas. Although the Senator from Massachusetts and I think that perhaps it is a little more than we would like, at least it does beef up the consultation services.

I am perfectly willing, after consultation with the Senator from Massachusetts, to take the amendment to conference.

Mr. BROOKE. Mr. President, I concur with the distinguished chairman, Mr. MAGNUSON. We did discuss this amendment at great length with the distinguished Senator from Kansas. This $5 million that he would now add to the bill would be in addition to $5 million that we already have in the bill, which would make $10 million for consultation purposes. It has no effect whatsoever upon the enforcement procedures or the inspection procedures. It is just that the Senator from Kansas feels, and we agree, that we should strengthen the consultation section of OSHA, and this money will allow that purpose to be fulfilled. So we agree to accept the $5 million.

Mr. DOLE. Mr. President, I thank the Senator from Washington and the Senator from Massachusetts for their remarks, and appreciate their consideration in supporting my amendment. Their understanding is correct that it will provide an additional $5 million for consultation without affecting the other funds in the bill for OSHA enforcement activities but I sincerely believe that—if handled right—it can go a long way toward creating and maintaining a climate of cooperation and acceptance on the part of employers throughout Kansas and the Nation—businessmen who want to comply with this difficult law, but up to now have had neither the means nor the knowledge to do so.

I am convinced Mr. President, that advice and assistance are the key to having any Federal program work, and that if we are to have an Occupation Safety and Health Act—it should be administered in just such a spirit. With that in mind, I hope the increased attention to consultation, education, and information made possible by this amendment will be a significant contribution to the goals which we all seek.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. MAGNUSON. Mr. President, the bill is open to further amendment.

The PRESIDING OFFICER. The bill is open to further amendment.

The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I call up my amendment as modified.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to modify his amendment?

Mr. ALLEN. No, sir; I do not. I have already modified it as I handed it in, prior to the announcement of cloture.

Mr. BROOKE. Does the Senator have copies of his modification?

Mr. ALLEN. I handed up all the copies I have.

The PRESIDING OFFICER. It is the understanding of the Chair that the amendment had to be offered as of yesterday, a day preceding the cloture vote.

Mr. ALLEN. My understanding is any amendments that came in prior to the cloture vote. If not, the Chair has outlawed about 10 or 15 amendments filed before the cloture vote. I have but one.

The PRESIDING OFFICER. There was no agreement, apparently, with regard to today's cloture vote.

Mr. BROOKE. Will a unanimous-consent agreement correct the situation that the Senator from Alabama is facing?

Mr. ALLEN. No; I do not ask unanimous consent. I call up my amendment that was filed yesterday and is already printed.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the appropriate place notwithstanding any other provision of the bill, the total amount herein appropriated shall be reduced by $1,000,000,000, with each separate appropriation being reduced by such percentage as will result in a total reduction of $1,000,000,000.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, this amendment is offered in behalf of myself and the distinguished Senator from North Carolina (Mr. HELMS). It will accomplish a reduction of $1 billion in this appropriation. Far from being merely a $36 billion bill, as the committee report would indicate at first glance, this actually is a $41 billion appropriation bill. The Secretary of the Department of HEW, Dr. David Mathews, has called attention to the fact that this appropriation bill runs more than $1 billion more than the President's budget, and it runs more than $900 million more than the HEW budget.

The Senators will note, on page 1 of the committee report, that the exact amount over the 1976 estimates is $1,108,043,381. What this amendment will do is get the appropriation somewhat nearer in line to the President's recommendation. In my judgment, inasmuch as it is in line with what the Secretary of the department is asking, the adoption of this amendment would probably, though not certainly, result in the President's signing the bill.

We have operated for many years at different times without an HEW appropriation bill. As far as I am concerned, this is an opportunity to see a bill pass in a manner and at an amount that would, in all likelihood, meet with the President's approval.

In a $41 billion bill, taking only $1 billion out of that would be a reduction only of about 2.5 percent for the overall appropriation. I believe the various beneficiaries of this appropriation could tighten their belts just a little bit to the extent of 2.5 percent in order to accomplish this saving of $1 billion.

The Secretary of the Department points out that the President's budget will result in a deficit of $60 billion. On May 14, Congress drew its own line at $69 billion, but on July 21, Congress' own scorekeeping report estimates a possible deficit of over $83 billion. This $1 billion reduction might not seem like a whole lot when we are faced with a $83 billion deficit, but it would at least put a cap on the spending under this bill at an amount very nearly the amount suggested in the President's budget.

If the argument is made, as I anticipate that it will be, that the $1 billion reduction would be something of a meat-axe approach, I have a motion that I plan to file in the event this amendment is not agreed to, which would call for recommitting this bill to the Committee on Appropriations, with instructions to report back not later than 10 o'clock in the morning with a $1 billion reduction, and the committee to have the discretion as to what appropriations would be reduced and in what amount to accomplish the $1 billion reduction. Possibly, that is the better approach. But both would result in the same amount of reduction.

The advantage of adopting this amendment is that—we could have gone on with the bill. However, I believe we will still be debating this tomorrow and the next day, too, for that matter. But it would give us a chance, even though it is a remote chance, of closing out the matter today if this billion dollar reduction amendment is adopted.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. I reserve the remainder of my time.

Mr. MAGNUSON. Mr. President, the proposed amendment would reduce the total amount appropriated by a billion dollars. The bill now pending before the Senate is $1.1 billion over the budget and $288 million over the House. Under this amendment, each separate appropriation would be reduced by a single predetermined percentage rate. Since the wording of the amendment covers only total appropriations, there is no safeguard whatsoever against individual programs or activities that could be eliminated entirely within the billion dollars.

The amendment also does not address itself to noncontrollable programs in the bill. In other words, those programs for which spending is mandated in the law

are not exempt from the provisions of this amendment. These programs, I remind the Senate, account for 72 percent of the funds in the bill and they include medicaid, social security payments, benefits for disabled coal miners, retirement pay for commissioned officers, and payments to the aged, the blind, and disabled.

The proposed amendment would eliminate nearly all Senate and House increases in the bill. Programs which would be the hardest hit by across-the-board reduction include cancer, heart research, maternal and child health care, medical facilities construction, child support, and rural health care—which is a new program, comparatively new—and nutrition for the elderly.

Services provided under these programs would be reduced with this amendment below last year's level. Under the amendment, total appropriations could be reduced below the President's budget, which was completely inadequate, so decreed by the House and the Senate committee.

It is also unclear whether the amendment would apply to the entire Labor-HEW bill, and if so, programs such as Jobs for the Elderly, the Community Services Agency, and the Railroad Retirement Board would also be reduced.

I think the amendment is unwise. It is what we like to term a meat-ax approach, and it could eliminate some programs entirely. Our committee went over all these programs from A to Z. We heard scores, literally hundreds, of witnesses and came to what we thought was the best conclusion to take care of the social needs of the people of this Nation. This would wreck many of these programs. Even if the amount were only reduced so much, a certain percentage, it still would be bad. We would have a serious problem in the House of Representatives after they had gone through this bill with a fine-tooth comb and came out with their recommendations.

I yield to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I must vigorously oppose this amendment. The Department of HEW has examined this amendment and it says that because of uncontrollables the amendment's net effect would be to achieve less than a $300 million saving.

I very much respect the Senator from Alabama in his attempt to save money for the Federal Government and cut back on our spending; I know he offers this amendment in all good faith, and it is a very serious amendment.

But after examining it, as I have said, the net effect would be to achieve less than a $300 million savings, and this is a $1 billion cut which would be across the board, as I understand it. So, Mr. President, I do not think the amendment really does what it sets out to do if that is the net result, and I think it is a prime example, Mr. President, of why we should reject this approach to budgeting in favor of the carefully considered item-by-item approach taken by our committee.

We have had long hearings, as our distinguished chairman has said, and we have considered each one of these items. We had a markup session with the subcommittee and with the full committee, and to have an across-the-board cut of $1 billion would play havoc with many of the important programs covered by the bill.

So I join with my distinguished chairman, the Senator from Washington (Mr. MAGNUSON) in strongly opposing this amendment.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. BROOKE. Yes.

Mr. WILLIAM L. SCOTT. I cannot frankly become tremendously concerned about reducing $1 billion from a $36 billion measure.

I just wonder if the Senator can tell me, has this agency not grown faster than any other Government agency? What were we appropriating 10 years ago and 5 years ago? Is it not one of the fastest growing agencies in the Government? Maybe the taxpayers would be very happy if it were only $35 billion rather than $36 billion.

Mr. BROOKE. The Department of HEW has grown, as our chairman has said, it has grown by law over the years. It has taken on many, many more responsibilities than it has ever had in the past.

First of all, we did not know we would have the high inflation that we have today, for one thing. That accounts for some of the cost of this particular bill.

In addition to that, we did not know we would have high unemployment in the country, as high as we have today.

The costs of health programs have skyrocketed, and so it is not a matter of just adding to this agency's budget. It is a matter of trying to meet the needs that are facing the people of this country: Labor-HEW is a very important bill.

I think that Presidents—certainly our present President, President Ford, former President Nixon, and President Johnson, and Presidents as far back as I have known—have tried to rearrange priorities so that we could spend more money for people's needs. The Labor-HEW bill is the bill that covers most human needs. It covers medicare and medicaid. It handles unemployment compensation. Well, I will not get into all this bill does, but it is a big bill.

I think this is the second biggest, if not the biggest bill that comes before Congress for appropriation purposes.

The Senator is quite right. It is a large bill, but the needs justify it.

We have been very mindful of the cost of this bill. I can assure the Senator from Virginia that the distinguished chairman and I and members of our committee worked very hard on this bill, and we have cut back where we could.

We expect we might even have to cut back further when we go to conference with the House, and I doubt very seriously that the bill will end up at the present figure of $36 billion.

But when you come in with an amendment such as that proposed by the distinguished Senator from Alabama (Mr. ALLEN), it is a question then of do we have an item-by-item cut or do we have an across-the-board cut on a bill without knowing just what its effect will be. I think some of the programs the Senator from Virginia may be very much interested in, which apply to problems crying out for solution, might be seriously impaired if we were to accept such an amendment.

Mr. WILLIAM L. SCOTT. Well, Mr. President, I would agree with the distinguished Senator from Massachusetts that the method used by the Senator from Alabama is not the best method. I believe the committee, acting on the individual item, is a much preferable method. But sometimes there is no other recourse.

I submit if this amendment were submitted by referendum to the people of Virginia or submitted to the people of the country, it would pass.

Mr. MAGNUSON. Mr. President, will the Senator yield for just a moment?

Mr. WILLIAM L. SCOTT. I will certainly be glad to yield.

Mr. MAGNUSON. The real problem, as I mentioned, is that 72 percent of this bill is mandatory. It is based upon laws passed by Congress and signed by the President, and so we are talking about 28 percent of the bill, and this cut would be serious. As a matter of fact, the cut would direct itself more to medicaid which maybe, with the Senator from Virginia, I might agree with him is a program that ought to be overhauled. But this is not the way to do it.

Mr. WILLIAM L. SCOTT. Well, Mr. President, I did not intend actually to get on my feet with regard to this. But oftentimes we hear that some particular expenditure cannot be cut because—what is the phrase the Senator just used—anyway, it is mandatory under the law. Well, we make the law and we can change the law, and I think we make a lot of mistakes in these big spending programs that day after day we bring before Congress and enact, and I think, quite candidly, we are going contrary to the large majority of the American public opinion with these big spending bills.

Sometimes we hear, when we are talking about appropriation bills, that we do not have any choice because it is in the legislative bill. Then in the legislative consideration we hear, "Well, don't worry about it, we will take care of it when it comes to the appropriation process." So we hear it both ways.

I am certainly going to support the amendment. If the Senator had an opportunity to make it a cut of $2 billion, I would support that.

Mr. ALLEN addressed the Chair.

Mr. STONE. Mr. President, will the Senator from Alabama yield for a question?

Mr. ALLEN. Yes. But first may I make a point, if I may.

Mr. President, objection has been made by the proponents of this $41 billion bill that a $1 billion across-the-board cut might cut some worthy agency, that this 2½ percent cut might be too severe.

Well, the answer to that is, Mr. President, that this bill is $286 million over the House bill. So in cases where there is some little shoe-pinching with this 2½ percent reduction, all they will have to do is take the House figure. That is all in that particular item. The adoption of this amendment will serve notice on the Senate conferees, on the Senate and on the House that the Senate wants reductions in this bill below even the House bill itself, and not to exceed the House bill by $286 million but to come under the House bill.

But as I say, if there is any shoe pinching, any validity to that claim as to some department, all we have to do is take the House figure.

Mr. MAGNUSON. $800 million was added by the House to the budget.

Mr. ALLEN. The point I am making is that the Senate bill is $286 million more than the House, so they have considered it item by item. If there is any shoe pinching by this, by the reduction, all they have to do is take the House figure of that particular item and that would remove the shoe pinching.

I yield for a question.

Mr. STONE. The Senator from Florida would like to ask the opinion of the Senator from Alabama with regard to this assertion that an across-the-board approach to cutting is wrong and not a good method.

Would the Senator from Alabama not agree that each item in an appropriations bill got there because a majority of Senators and a majority of Congressmen thought well of the bill and, therefore, an attempt to cut a major amount from any one such program becomes almost impossible in the light of the majority support that originally put those amounts in the bill?

Mr. ALLEN. That is correct.

Mr. STONE. Would the Senator from Alabama not agree that a minor across-the-board cut would demonstrate the concern of this Congress that we not exceed even the sky-high deficit estimate and forecasts now being made?

Mr. ALLEN. I think it shows some little display of just a tiny bit of fiscal responsibility, as much as we can show in this particular instance. But it would get us on the right track, it would seem to the Senator from Alabama.

Mr. STONE. The Senator from Florida would like to observe that the Senator from Florida voted against recommitting the defense appropriations bill to conference, but would be willing, if this amendment of the distinguished Senator from Alabama passes, to take the exact same approach to the defense spending bill as to the civilian spending bill we are now facing, right now; but to the contrary if this approach, which is eminently reasonable in the opinion of the Senator from Florida, would be rejected.

I would ask that the Senator from Alabama make a unanimous-consent request to add the Senator from Florida as a cosponsor.

Mr. ALLEN. I am delighted to do that.

Mr. President, I ask unanimous consent that the name of the distinguished junior Senator from Florida (Mr. STONE) be added as a cosponsor.

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

Mr. ALLEN. I thank the distinguished Senator from Florida.

Mr. President, I yield back the remainder of my time with respect to this amendment. I have not yielded back all of the time I am entitled to.

The PRESIDING OFFICER. Does the Senator from Massachusetts wish to be heard?

Mr. MAGNUSON. Mr. President, we will yield back the remainder of our time on this particular amendment.

Mr. BROOKE. We will yield back the time.

Mr. MAGNUSON. The yeas and nays have been ordered.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Alabama. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay".

Mr. HUGH SCOTT. I announce that the Senator from New Mexico (Mr. DOMENICI), and the Senator from Arizona (Mr. FANNIN) are necessarily absent.

I also announce that the Senator from Michigan (Mr. GRIFFIN) is absent on official business.

The result was announced—yeas 32, nays 62, as follows:

[Rollcall Vote No. 413 Leg.]

YEAS—32

Allen	Eastland	Proxmire
Baker	Garn	Roth
Bartlett	Goldwater	Scott, William L.
Bentsen	Hansen	Sparkman
Brock	Helms	Stennis
Buckley	Hollings	Stone
Byrd, Harry F., Jr.	Johnston	Talmadge
Byrd, Robert C.	Laxalt	Thurmond
Chiles	Mansfield	Tower
Curtis	McClure	
Dole	Morgan	
	Nunn	

NAYS—62

Abourezk	Haskell	Muskie
Bayh	Hatfield	Nelson
Beall	Hathaway	Packwood
Bellmon	Hruska	Pastore
Biden	Huddleston	Pearson
Brooke	Humphrey	Pell
Bumpers	Inouye	Percy
Burdick	Javits	Randolph
Case	Kennedy	Ribicoff
Church	Leahy	Schweiker
Clark	Long	Scott, Hugh
Cranston	Magnuson	Stafford
Culver	Mathias	Stevens
Durkin	McClellan	Stevenson
Eagleton	McGee	Symington
Fong	McGovern	Taft
Ford	McIntyre	Tunney
Glenn	Metcalf	Weicker
Gravel	Mondale	Williams
Hart, Gary W.	Montoya	Young
Hartke	Moss	

NOT VOTING—6

Cannon	Fannin	Hart, Philip A.
Domenici	Griffin	Jackson

So Mr. ALLEN's amendment (No. 908) was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President, a parliamentary inquiry. I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. ALLEN. Have any amendments been filed since the cloture vote on yesterday, and read, so that they would comply with the provisions of rule XXII?

The PRESIDING OFFICER. A number of amendments have been filed. None have been read to comply with the requirements of rule XXII.

Mr. ALLEN. In other words, amendments filed subsequent to the cloture vote on yesterday and not read would not be in order; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. I thank the Chair.

AMENDMENT NO. 912

Mr. CURTIS. Mr. President, I yield myself 2 minutes. I call up my amendment No. 912, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the appropriate place insert the following: "None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing three or fewer persons to enforce compliance with the Occupational Safety and Health Act of 1970.".

Mr. CURTIS. Mr. President, this is similar to the amendment on which we had two tie votes. The first vote was 44 to 44; it was reconsidered, and on reconsideration the vote was 42 to 42.

That amendment, dealing with the Occupational Safety and Health Act, would grant a small businessman's exemption where they had five or fewer employees. This amendment deals with three or fewer employees. In other words, it will take out these very small establishments where, in many instances, it is a family-operated concern and there are many reasons why the Federal Government should not have to police it. Their record for safety is not dependent upon Federal oversight.

Mr. President, I am willing to vote without any debate, if those in charge of the bill so desire.

Mr. MAGNUSON. Mr. President, if the Senator from Massachusetts is agreeable, I am willing to vote without further debate, since we have debated this issue extensively in the past few days. However, I see the Senator from New York wants some time.

We only have 20 minutes on a side anyway. So I yield to the Senator from New York for such time as he wishes.

Mr. JAVITS. I cannot be yielded the time. I will take it on my hour.

Mr. MAGNUSON. If the Senator from Nebraska will yield back his time, the Senator may want to answer some of these.

Mr. CURTIS. I yielded myself 2 minutes and am ready to vote.

The PRESIDING OFFICER. The time limitation is 15 minutes on a side.

The Senator from New York.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

We have gone up and down hill on this OSHA matter. The real issue before the Senate, a matter which we have argued before, is whether or not the life or health of a worker, who works in an establishment that has three or less, is more important or less important than the life or health of a worker who is working in an establishment where there are three or more workers.

We are not dealing here with economic impact. We are dealing with human life and human injury. We are dealing with whether a worker can work in a plant where he is likely to get cancer or asbestosis, the breathing of asbestos dust, or any one of 20 other industrial illnessses.

The question is: Is he to be discriminated against because he is working in a little place as contrasted with a fellow working in a big place?

What we have pointed out before is that the incidence of these dangers is likely to be greater in the smaller establishment, because they simply do not have the resources and the technical equipment, et cetera, to give the care and to sustain the suits which come in larger establishments.

Mr. President, the facts, which we gathered—I think these come from the Labor Department—are simply factual figures showing that if we get down to three or less we only cover 52 percent of all the establishments in the country.

We simply should not whittle away at the danger. That is really what the mover of this amendment is trying to do. There is no such thing as de minimis in this situation. It is human life and human health.

Whatever we may do about the nature of inspections or the penalties which will be imposed or the consultations which will be allowed none of this goes to the fundamental point raised by this amendment. That is a flat exemption. In view of the fact that there are relatively few States which have effective programs of their own, indeed they have been turning their programs back to the Federal Government—and that even goes for an enlightened State as my own—on grounds of economy. We are supposed to be leaders in the industrial field in New York. We have turned the administration back to the Federal Government, and we would have to remount it again if we wanted to reach these small establishments.

So I appeal to our colleagues essentially on human grounds, whatever other provisions they make about other regulation. Senators should not simply exempt those who are in a real danger because the establishment is a small one. I submit that that is a superior consideration to the conclusion of bookkeeping, or the fact that a small businessman has to contend with inspectors, or anything else. I think most small businessmen would agree that the life and health of the worker is even more important. Distasteful as it is to him to deal with the Federal Government, inspector, forms, or whatever, the dangers to an individual in terms of his life and his health is the most important consideration.

For those reasons, Mr. President, I simply do not see how we can make any distinction in this field or the basis of the number of workers employed. They are human beings as much as the fellow working for General Electric or General Motors.

I hope the Senate will reject the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WILLIAMS. Mr. President, may I have time in opposition to this amendment?

Mr. MAGNUSON. Yes, I yield such time as required.

Mr. WILLIAMS. I certainly agree with everything the Senator from New York said in opposition to this amendment. What the amendment does really is consider only one element of this whole factor, and that is a supposed burden on the small businessman.

The other side of it is the welfare of millions of workers. There are 4 million employed people who would be wholly excluded from the coverage of this Occupational Safety and Health Act as a result of this amendment. As we think of eliminating all protection for these workers and put that on the scale with this small burden, which is, I suppose, the thrust of the amendment, I could suggest to Senators that it seems most cruel to me that these Americans would be excluded from something that is there to protect lives.

When Senators think of the burden upon the small businessman, it is not that much of a burden at that, I respectfully suggest to the Senator from Nebraska. There are little better than 2½ million places of work where there are three or fewer employees, and there have been inspections at less than a half percent of those workplaces. There have been fewer than 12,000 inspections in over 2½ million workplaces.

The inspections have, as a general rule, gone only to those establishments where the problems presented by the working operation suggest the possibility of death on the job, or a great danger or catastrophy. We have seen examples right in the neighborhood.

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

Mr. WILLIAMS. Yes.

Mr. PASTORE. Of course, the Senator from New York and the Senator from New Jersey make a very impressive argument. I do not think there is anyone in this Chamber who wants to kill anyone. We want to make life as safe for every American, whether it is one or a million.

But the fact still remains there have been a lot of abuses in this program. We know that a lot of small people have been harassed. It is not a matter of whether or not we are insensitive to the lives of two or three people as against the lives of 10 or 15. But most of these guidelines, that are set by the Federal Government, are usually oriented to big firms like General Motors. They come to my little State of Rhode Island, where they have two people working in a little jewelry shop, and they begin to go around there with a telescope and a magnifying glass, and they find this out, and they find that out. Then they have the power to impose a fine on the spot. I am telling Senators we have gotten to the point of harassment.

Now will someone address himself to that point? After all, General Motors has a lot of money. They can read this. They have good lawyers. They can read all the regulations. But then we take the small little businessman, if I may be permitted to use that, he does not have that same kind of service. They walk into his place, and they say: "Well, now look here, look here, you ought to have two toilets here, instead of one; it is not safe with only one." Yet when one goes on an airplane, we get 125 people on that airplane, men and women use the same lavatory. Yet they go to a little place like this, that has been doing business for years and years, and they begin to get in picayune stuff.

I was wondering will the Senator from New York and the Senator from New Jersey tell the Senator from Rhode Island, who wants to be on your side, how do we overcome this harassment?

Mr. WILLIAMS. If I could, first, if I have the floor, and then yield the time to the Senator from New York, we all have been apprised of the administrative enforcement abuses. Every Member of this body has had constituent complaints of the picayune, the unnecessary OSHA procedures and all of the rest. They have presented to us these big stacks of regulations that no one can be expected to understand in detail.

Now that was years ago, and we have had our debates here on those issues. I will say to the Senator from Nebraska he has rendered a real service, because he has really put the feet of the administrators to the fire, and out of it has come the true beginning of a rational enforcement procedure.

I have here some documents. These little pamphlets are reduced to the most understandable language and apply if we have a gas station, if we have a laundry, if we have a grocery store, if we have a sporting goods store, and a can and soft drink facility. These simplified procedures even illustrate and lay out the law of what is expected of people in understandable terms, clear and simple terms, with very elementary, rudimentary demands for health and safety.

Mr. PASTORE. I am very happy about that.

Incidentally, an aide came to me and said, "Use another microphone. Yours is broken."

I wonder whether anybody did not hear what I had to say. [Laughter.] If they did not hear it, I will say it again.

Mr. WILLIAMS. The microphones were not installed for the Senator from Rhode Island.

Mr. PASTORE. I will be watching this thing very closely. Are we going to stop harassing people? Are we going to stop playing cops and robbers?

Mr. WILLIAMS. Here is the record I have from the new Secretary of Labor John Dunlop, for whom everyone in this body has the greatest respect. When he came before the chairman informally, before his confirmation hearing, and then at his confirmation hearing, everything that has been registered here of concern about the maladministration of OSHA was laid on the line to Secretary Dunlop. He understood, and right now he is in the process of naming a man to be Assistant Secretary of Labor for OSHA who I am sure will be sensitive to the concerns expressed in the Senate.

Mr. JAVITS. Mr. President, will the Senator yield, on my time?

Mr. WILLIAMS. I yield.

Mr. JAVITS. Mr. President, one other point: This is on an appropriations bill. It is a limitation. If this were put on a labor bill, we could amend the amendment. We cannot do that now.

For example, what could be written into this amendment is that it shall not apply in hazardous industries or firms where there have been previous violations. We cannot do a thing now. The Senator can do it on any other bill or a labor bill. There is no rule of germaneness.

In addition, Senator WILLIAMS and I will give a hearing—we have done it before and will do it again—in order to bring that kind of pressure to bear on the administration. We are not shutting our eyes to the problem.

Mr. CURTIS. I yield myself 1 minute.

Mr. President, for 5 long years, those who oppose this amendment have opposed every change in that law. It has been stated here that this is an amendment to take away all safety protection. The people who are working there are concerned. We still have many voluntary organizations. We still have the local government and still have the State government.

I do not accept the doctrine that Uncle Sam has to look over the shoulder of every person in the country. They are not without brains. If a man has his son working in a little shop, is he not more concerned about the safety of that boy than all the inspectors in the world? Certainly he is.

If those in opposition wanted to do something to modify this, they have had 5 years in which to do it. It is our only chance to take an arrogant, ruthless agency off the backs of a lot of people, and no record has been cited here that they have done any good.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. I am ready to vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CURTIS. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

SEVERAL SENATORS. Vote! Vote!

Mr. MAGNUSON. Unless someone else wishes time, the Senator from Massachusetts and I will yield back our time.

Mr. JAVITS. Mr. President, will the Senator yield me 1 minute?

Mr. MAGNUSON. I yield.

Mr. JAVITS. I think the issue is clear, Mr. President. The issue is clear, as to whether or not we should try to do whatever the Senate wishes to do at a time when it could be malleable and responsive to substantive issues, or whether we should arbitrarily cut out every employer of three. Should that man's life and health be in jeopardy because he happens to be in a small shop? Members can very clearly declare themselves "yea" or "nay" on that issue.

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

Mr. JAVITS. I yield.

Mr. PASTORE. I understand from the Senator from New York that he has objection to this particular amendment being on this particular bill.

Mr. JAVITS. Exactly.

Mr. PASTORE. In that event, is he going to move to lay the amendment on the table?

Mr. JAVITS. I think Senator WILLIAMS has that intention.

Mr. PASTORE. I hope the Senator will make up his mind.

Mr. WILLIAMS. The answer to that is that at the appropriate time, when all the time is used up, I will do so. I will do so for this reason and for the other reason, that we are fully sensitive to the problems faced by Members of the Senate in this regard.

In our committee, we already have started our process. I hope the new Senator from New Hampshire, who has been the last on the firing line of opportunity in getting elected and who probably has heard more complaints than anybody else recently, and who is a member of our committee, will lead us in some grassroots hearings and a study of this issue again. I will serve on his task force, and I am certain that the Senator from New York will, also.

Mr. CURTIS. I yield myself 1 minute.

Mr. President, here is a shell game if I ever heard of one. Why does the Senator not let us have a vote on this, instead of moving to table, raising an objection about what bill it is on, and promising hearings? We have had hearings. I have brought witnesses in here, and they have told their story.

The presiding Senator smiled and thanked them for their helpful information.

Four years have gone by, and they have done nothing about it.

I appeal to the fairness of the chairman of the Committee on Labor and Public Welfare to let us have a vote up or down on this amendment.

Mr. PASTORE. Mr. President, will the Senator yield to me on the statement he just made?

Mr. CURTIS. I yield.

Mr. PASTORE. The Senator's witnesses talked about five or less.

Mr. CURTIS. No. They talked about their treatment.

Mr. PASTORE. The Senator from Nebraska brought up an amendment which provided for five or less. He lost that, and now it is three. I am wondering whether after it is three, it will be two and after it is two it will be one. After that, will it be papa and mama? Where are we going?

Mr. CURTIS. These hearings were before the subcommittee of the Committee on Labor and Public Welfare. I was there all the time. They did not discuss a number. They came in and told of their treatment by OSHA. It is an arrogant agency that does not reflect upon the good of the U.S. Government, and it does nothing to promote safety, because half of their inspectors do not know what they are talking about. There are not any hazardous manufacturing concerns that have three or fewer employees.

Again, I appeal to the chairman of the committee to let us vote on it. As to this shell game that we will have a hearing, I know what will happen: We will bring in some witnesses, pay their expenses, somebody will come in, and somebody will thank them for their information, and nothing will happen.

Mr. WILLIAMS. I have announced that I would move to table. I can hear from those who have been very close to this appropriation bill that the time has come to vote up or down, and, therefore, I withdraw my suggestion.

Mr. MAGNUSON. With that announcement, Mr. President, I yield back the remainder of my time.

Mr. CURTIS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will please call the roll.

The legislative clerk called the roll.

Mr. MUSKIE (after having voted in the affirmative). On this vote, I have a pair with the Senator from Michigan (Mr. PHILIP A. HART). If he were present and voting, he would vote "no." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Washington (Mr. JACKSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Michigan (Mr. HART) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "nay."

Mr. HUGH SCOTT. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

I also announce that the Senator from Michigan (Mr. GRIFFIN) is absent on official business.

The result was announced—yeas 48, nays 45, as follows:

[Rollcall Vote No. 414 Leg.]

YEAS—48

Abourezk	Bumpers	Dole
Allen	Byrd,	Eastland
Baker	Harry F., Jr.	Fannin
Bartlett	Byrd, Robert C.	Fong
Bellmon	Chiles	Ford
Brock	Church	Garn
Buckley	Curtis	Goldwater

Hansen	McClure	Roth
Haskell	McGovern	Scott,
Helms	McIntyre	William L.
Hollings	Morgan	Stennis
Hruska	Moss	Stone
Johnston	Nelson	Talmadge
Laxalt	Nunn	Thurmond
Long	Packwood	Tower
Mansfield	Pearson	Young
McClellan	Randolph	

NAYS—45

Bayh	Hartke	Pastore
Beall	Hatfield	Pell
Bentsen	Hathaway	Percy
Biden	Huddleston	Proxmire
Brooke	Humphrey	Ribicoff
Burdick	Inouye	Schweiker
Case	Javits	Scott, Hugh
Clark	Kennedy	Stafford
Cranston	Leahy	Stevens
Culver	Magnuson	Stevenson
Durkin	Mathias	Symington
Eagleton	McGee	Taft
Glenn	Metcalf	Tunney
Gravel	Mondale	Weicker
Hart, Gary W.	Montoya	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Muskie, for.

NOT VOTING—6

Cannon	Griffin	Jackson
Domenici	Hart, Philip A.	Sparkman

So Mr. CURTIS' amendment was agreed to.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open for further amendment.

Mr. MAGNUSON addressed the Chair.

The PRESIDING OFFICER. May we have order in the Senate. Will the Senator suspend until we have order? May we have order so that the Senator from Washington can be heard. Will Senators please take their seats. Will Senators please conduct their conversations in the cloakroom or elsewhere.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECESS TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

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

ORDER VITIATING CLOTURE MOTION FILED YESTERDAY

Mr. BROOKE. Mr. President, I move to vitiate the cloture motion filed yesterday.

The motion was agreed to.

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

The PRESIDING OFFICER. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HARRY F. BYRD, JR. Mr. President, I ask that the Chair get order in the Chamber.

The PRESIDING OFFICER. The Senate will please be in order so that the Senator from Virginia may be heard. Senators will please take their seats. The Senator from Virginia may proceed.

JAMES L. BUCKLEY, A SENATOR WITH COURAGE AND CHARACTER

Mr. HARRY F. BYRD, JR. Mr. President, it is not often that a Member of the Congress says "No" to those who would raid the Federal Treasury for the benefit of a district or State represented by the Member of the Congress.

But Senator JAMES L. BUCKLEY, of New York did just that.

Senator BUCKLEY told a news conference that, like the Ford administration, he opposes the suggested Federal loan guarantee of New York City bonds.

"There is no way of having loan guarantees without having Federal guidelines, and that I oppose," Senator BUCKLEY said. "New York has got to put its own house in order" the Senator added.

The Conservative-Republican, who faces reelection next year, said that he opposes direct Federal action because, "based on historic experience, I am opposed to further eroding our Federal system, which is based on independent, self-governing bodies."

The senior Senator from Virginia is pleased today to salute Senator BUCKLEY. It took courage and character for Senator BUCKLEY to take such a position.

The politicians will deride him.

But in politics today, there are a few persons—not many, but a few—who would rather do what is right and what is best for our Nation than to take an unsound position for personal political gain.

While politically unwise on its face, Senator BUCKLEY's forthright stand represents such a contrast with the politicians who brought about New York City's dreadful financial condition, that Senator BUCKLEY may even gain with the electorate.

In the minds of many people, courage and character are so rare in public life today that the people of New York may cherish one who possesses such attributes.

OREGON TREASURER OPPOSES BAILOUT FOR NEW YORK CITY

Mr. HARRY F. BYRD, JR. Mr. President, to those Senators who would vote to bail out New York City by having the Federal Government guarantee her bonds, I invite attention to a statement published in the Washington Star of September 22 from Oregon State Treasurer James Redden.

Mr. Redden asked this question:

Who will buy our bonds if the Federal Government rewards New York's ineptness with a guarantee for their debt?

If the Federal Government gives in to political pressures and bails New York City out of her self-created financial mess, the ramifications will be many. The elected official of Oregon cited one example.

A bailout for New York City would be a bottomless pit for the American taxpayer.

There are many other examples and the ramifications will be many.

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

Mr. KENNEDY. Mr. President, will the Senator withhold that?

Mr. HARRY F. BYRD, JR. I withhold that.

The PRESIDING OFFICER. The Senator from Massachusetts.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1976

The Senate continued with the consideration of the bill (H.R. 8069) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask unanimous consent that the amendment be considered in order.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object——

Mr. ALLEN. May we have the amendment read, please?

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

On page 40, between lines 5 and 6, insert the following:

EDUCATION DIVISION

OFFICE OF EDUCATION

An additional amount for carrying out title I of the Elementary and Secondary Education Act of 1965 for the fiscal year ending June 30, 1976, $1,000,000,000.

Mr. KENNEDY. Mr. President, before asking for the unanimous consent that this amendment be in order, I have been listening to the debate on the floor of the Senate on the whole question of the busing and the various issues that have been expressed.

What I have heard day in and day out is how so many of the Members here who have supported those various amendments really care about the kind of education in the inner city school.

Title I is the one instrument which has been fashioned by Congress to provide direct assistance to deprived children in the inner city schools. Primarily, those have been in the areas where there has been the greatest poverty and the greatest deprivation.

I thought by putting this amendment in and asking that it be in order that we would, as a body, have a chance to express our views about whether the

questions of quality education could be the opportunities for increasing quality education, just in terms of adding resources to the already inner city schools, where children will not be bused from, and it would be possible.

So I would hope, Mr. President, even though it does not conform with the fact of being entered prior to the time that we did enact cloture, that this body generally, all the members of which have indicated their concern about improving education in the inner city schools in the areas where there is the greatest deprivation, would at least permit a chance to have it considered as in the other amendments where there would be a very short period of time.

We could examine this and find out whether we are really interested in trying to do something about the inner city schools and the deprived children or whether a great deal of the rhetoric that was heard here in the past week was rhetoric.

Mr. ALLEN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Reserving the right to object——

The PRESIDING OFFICER. Reserving the right to object.

The Senator from Alabama.

Mr. ALLEN. Mr. President, the Senator from Alabama sought to knock a billion dollars out of the bill.

The distinguished Senator from Massachusetts is trying to add $1 billion. The Senator from Alabama would be constrained to object to the amendment at this time.

Mr. KENNEDY. I would hope that prior to the Senator from Alabama filing the objection he would consider not only the questions of the monetary considerations, but this broader kind of issue which has preoccupied the Senate for the past week and preoccupied the Nation now for any period of time, on which there have been a gerat many comments and statements in terms of what is going to be done, in terms of trying to strengthen the education system.

I have a good deal of respect for the position of the Senator from Alabama, which has been long held, in terms of fiscal economy. But it seems to me that really what we are talking about, as important as that issue is, is the question of the quality education which has aroused such emotion here in the Senate and across the country. I would have thought that particularly those who have argued most strenuously in terms of either limiting title VI of the Civil Rights Act or in terms of the limitations on the ability to transport children would at least give an opportunity to try and test out their view, that in strengthening the educational system in the inner cities and the deprived areas that this is really what they have been interested in, and it would give them an opportunity to show that interest.

Mr. MANSFIELD. Mr. President, I think the Senator is on the right track. I believe if we are going to upgrade education, especially in the inner cities, we are going to have to pay for it. If we are going to have quality schools and get away from busing, we will have to pay for it. The only way we can do it is with better educational facilities, a better teaching corps. I would hope that there would be no objection to this very worthwhile amendment which I think goes right to the heart of the problem.

Mr. KENNEDY. I thank the Senator.

Mr. ALLEN. Reserving the right to object, I sympathize with the distinguished Senator from Massachusetts for the situation that exists in his native State. It is a situation that my own State has had in the past. But we have accepted the decisions of the courts and have abided by them. We are sympathetic with any people who have this travail to contend with. But the Senator from Alabama does not believe that throwing another $1 billion at the problem is going to solve the problem. It is going to be a problem that will have to be solved in the minds and hearts of the people. Throwing $1 billion at the situation is not going to make the problem go away, in the opinion of the Senator from Alabama. I object to the consideration of the amendment.

Mr. KENNEDY. Could the Senator from Alabama withhold, reserving his right, until I respond to any questions?

Mr. ALLEN. I continue to reserve my right.

Mr. KENNEDY. All I can say, of course, is if the Senate had been able to consider this amendment, and if it could have been favorably acted upon, of course, those children in Alabama who would have benefited under title I would have benefited as well as those in my own city of Boston. I yield to the Senator from Florida.

Mr. CHILES. The Senator from Florida, together with other Senators in the Chamber, including the distinguished majority leader, introduced legislation trying to deal with this subject, in effect, in which we talked about a prize school. We were not satisfied to be just against busing and for a neighborhood school situation. What we did in the south, and I suspect what we did in many areas of the country where these orders were being enforced, was to close that disadvantaged school and bus the children out. When we closed that school, we not only closed the seat of education but closed the community center as well. In so many of your deprived areas, especially in your disadvantaged neighborhoods, that is the position that the school has served.

I think the Senator from Massachusetts is on the right track. I think we are going to have to be willing to provide quality education. I think we can do it, and perhaps at some additional cost. But when we consider all of the costs we have been spending on the busing and all of the sort of wheel spinning that we have been doing in that regard, if we would really get to the core of the problem, providing a quality education for each child in this country regardless of where they live, regardless of what their color or race is, then I think that would be productive. Regardless of the cost, it would be worthwhile.

I can see why the Senator from Alabama would object. While putting in $1 billion signifies we want to do something, I am not sure that it signifies we have an answer for trying to provide that quality education.

I would urge the Senator from Massachusetts to look at the legislation which I am now drafting. I would like to have his help in that legislation, and the help of any of the rest who are not satisfied with just voting "No" on busing which many on our side have done. We are not satisfied because we do not want to go back. We are not trying to say that we want to go back to separate but equal. We know it was never equal and we know it is not good to be separate. We want to try to find an answer to provide for quality education.

I think some way of trying to set up some of these prize schools is important. The President is now talking about quality education. There may be an area in which we can try to do something. As the Senator from Massachusetts has said, I am sure one of the great problems in his State is that almost all of the Boston schools were disadvantaged to start with. They were not providing quality education to start with. Certainly, that is the core of the matter and where we need to go.

I want to join with the Senator in trying to do something about it. I would like to have the Senator look at my legislation and see if there is some area where we could find a way to try to work in this regard.

Mr. KENNEDY. I thank the Senator from Florida for his comments. I believe he introduced that legislation some 2 or 3 years ago. I am familiar with the seriousness of the concern of the Senator from Florida on this issue.

Mr. President, it seems to me that the title I provisions of the Education Act have had the result of a very extensive set of hearings over a very considerable period of time, going back to the early part of the 1960's, to the mid-1960's. It has been altered, changed and strengthened on the basis of the legislation that was passed a year ago. It does concern itself with the size of classrooms, with materials, with teacher training, special tutors and teachers for very specialized problems and needs. I think it is an important element in the total Federal participation with localities and States in trying to upgrade education. It seems to me that we could strengthen that particular provision while we are considering any of the other alternatives. I understand the position which has been taken by the Senator from Alabama and I appreciate his willingness to withhold his objection until we had a chance to exchange these comments.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. I yield either the floor or for the purpose of the objection of the Senator from Alabama.

Mr. ALLEN. I would like to continue to reserve my right to object.

Mr. MAGNUSON. The Senator has already objected.

Mr. ALLEN. I merely reserved the right to object.

I assume that the distinguished manager of the bill would object to this $1 billion addition. Had not cloture been invoked, the amendment, of course, would be in order. The Senator from Alabama voted against cloture, hoping that all amendments could be brought in. But since cloture has been invoked, this would add $1 billion to the amount by which the bill already overruns the budget request. It would be $2 billion out of line then. I feel certain that the manager of the bill would object. In case he does not, I object to the amendment coming in.

Mr. KENNEDY. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state.

Mr. KENNEDY. Is that an objection or not an objection.

The PRESIDING OFFICER. The Senator from Alabama has objected.

Mr. MAGNUSON. The amendment is not in order anyway.

Mr. ALLEN. It would have been in order if unanimous consent had been given. That was what I objected to.

The PRESIDING OFFICER. Objection is heard. The record is clear on the matter.

Does the Senator from Massachusetts wish to be recognized?

Mr. KENNEDY. No, Mr. President.

Mr. MAGNUSON. Mr. President, I understood the busing day was tomorrow.

The PRESIDING OFFICER. That was our understanding.

Mr. MAGNUSON. And, further, that we were going to try to get this bill moving along tonight.

Now we are back on it again. I think it is perfectly all right to have this discussion, but we do have one amendment left. We have waited for the Senator from Wisconsin; he is here now, and has an amendment he would like to present.

The PRESIDING OFFICER. Does the Senator from Wisconsin wish to be recognized?

Mr. NELSON. Mr. President, I have an amendment which was introduced some time ago, prior to the cloture vote, amendment No. 890. However, after discussing this matter for some time with the manager of the bill, I have drafted another amendment which is acceptable to him.

This amendment would add $5 million for the National Institute of Allergies and Infectious Diseases, and $9 million for the National Institute of General Medical Sciences and $6 million for the National Institute of Environmental Health Sciences.

The biomedical research people in general around the country are in strong support of the proposal to add some money for these institutes. In fact, two of them, allergy and general medicine, are receiving 5 percent less in real dollars now than they were in 1970, in the case of allergy, and 7 percent less in real dollars for general medical research than was the case in 1970.

There are only three institutes which are receiving less in real dollars now than they were in 1970. This amendment would restore $5 million to one and $9 million to the other, and then $6 million to the National Institute of Environmental Health Sciences, which was funded at a very low level in the beginning.

I would prefer, and so would the manager of the bill, instead of calling up the original amendment and asking unanimous consent to modify it, to offer this amendment and ask unanimous consent that it be considered instead, if that is acceptable to the manager of the bill.

Mr. MAGNUSON. You call up the amendment, do you not?

Mr. NELSON. I will offer it; I ask unanimous consent to do so at this stage.

Mr. ALLEN. Mr. President, reserving the right to object, there is an amendment pending that does comply with the conditions of rule XXII; is that correct?

Mr. NELSON. That is correct.

Mr. ALLEN. And the Senator now seeks to modify that amendment?

Mr. NELSON. Well, I seek to offer it just as an independent amendment, instead of modifying the other one.

Mr. ALLEN. What is the difference between the amendment that is in order and the modification that is not?

Mr. NELSON. The original amendment would cut $100 million out of the Cancer Institute and $50 million out of the Heart and Lung Institute, take $50 million and add it to the other institutes. That was unacceptable to the manager of the bill and the Senator from Massachusetts (Mr. BROOKE); so I drafted this one in order, at least, to be certain that these three institutes, which seriously need this money for their biomedical research, would at least get an opportunity to get it, though the amount would have to be settled in conference.

Mr. ALLEN. The original amendment just had to do with allocation of certain amounts, is that correct, not any additions?

Mr. NELSON. Well, the original amendment would remove $150 million.

Mr. ALLEN. But then would put it somewhere else?

Mr. NELSON. No, it would take away $100 million from cancer and $50 million from heart-lung, and then take $50 million and add to the other institutes, so there would be a net gain of $50 million to the other institutes and a net loss of $150 million to those two.

Mr. ALLEN. It would add $50 million to the total amount appropriated, would it not?

Mr. NELSON. No, the original amendment would not. This one would add $20 million.

Mr. ALLEN. I understood the Senator was going to take $150 million from two agencies or purposes, and then add an additional $50 million.

Mr. NELSON. To subtract $150 million from two institutes, but add $50 million to the other institutes.

Mr. KENNEDY. The net effect is a cut of $100 million.

Mr. ALLEN. But now the Senator proposes to add $20 million instead of cutting $100 million?

Mr. MAGNUSON. Make your request so we can get on with it.

Mr. BELLMON. Reserving the right to object, Mr. President——

Mr. NELSON. I send to the desk the amendment, and urge that it be called up after the Senator from Oklahoma makes his reservation.

Mr. BELLMON. This amendment is entirely different from the other amendment. The other amendment would cut $100 million and this one adds $20 million to the bill; that is the effect, is it not?

Mr. NELSON. That is the dollar effect.

Mr. BELLMON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I am sorry there was an objection, because the Senator from Massachusetts and I were going to see if we could not take this amendment to conference. Of course, we would strenuously oppose the original amendment, as taknig $100 million off cancer.

So, in view of the parliamentary situation and the objection, I guess the so-called Nelson amendment cannot be brought up.

Mr. President, are there any further amendments to the money part of the bill?

The PRESIDING OFFICER. Are there further amendments?

Mr. CRANSTON. Mr. President, may I suggest the absence of a quorum? I would like to have a chance to confer with the floor manager for a moment.

Mr. MAGNUSON. Does the Senator have an amendment, too?

Mr. CRANSTON. It is on the same subject matter.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALLEN. Mr. President, I ask unanimous consent that a letter dated September 17, 1975, from Dr. David Mathews, Secretary of Health, Education, and Welfare, to Senator HUGH SCOTT, recommending that this bill be recommitted to the Committee on Appropriations because it is out of line with the President's budgetary request, be printed in the RECORD for information of Senators and the public generally.

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

SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., September 17, 1975.

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

DEAR SENATOR SCOTT: I want briefly to provide you with my views on H.R. 8069, the FY 1976 appropriations bill for the Departments of Labor, Health, Education, and Welfare and related agencies. I believe the amount of money in that bill is excessive in today's difficult fiscal times.

The total bill exceeds the President's Jan-

uary budget by more than $1 billion. For HEW, it is more than $900 million over the budget.

These expenditures are proposed at a time when the overall fiscal picture of the nation demands an even greater restraint on spending than in those prior years when the Congress appropriated more for health and welfare than requested by the President.

The President has drawn the line on the budget deficit for FY 1976 at $60 billion.

On May 14, Congress drew its own line at $69 billion.

Congress' own July 21 budget scorekeeping report estimates a possible deficit of over $83 billion.

I recognize that some of the increases over the budget would, on their merits, be money well spent. We must, however, view the work of this Department in the context of the many other legitimate demands on Federal, State, and local funds.

In some instances, moreover, the merits of the additional spending are questionable. For example, I think that there is a consensus among medical researchers that the expenditure of more than $800 million for cancer research is not justified if we are to maintain a balanced biomedical research program. The Senate has added $100 million more for cancer research than is contained in the House bill which is already more than $100 million over the proposed budget.

We are at a point where we believe the fight against inflation can be won. Increased Federal spending such as is contained in H.R. 8069 could well tip the balance in the wrong direction. To do so will hurt the beneficiaries of this Department's programs far more than they will be helped by the additional money in this bill.

It is our view, therefore, that the best course of action would be for the Senate to return the bill to the Appropriations Committee with instructions to make significant reductions.

Cordially,

DAVID MATHEWS,
Secretary.

ADDITIONAL STATEMENTS SUBMITTED IN CONNECTION WITH H.R. 8069

Mr. BAYH. Mr. President, I am opposed to the Biden amendment to the 1976 Labor-HEW appropriations bill which the Senate adopted on September 17. I voted against its adoption and I hope that the Senate will reconsider it and remove it from the bill.

The Biden amendment, although it has been described as an antibusing amendment, is not going to end busing. What it is going to do is create chaos, nullify an important provision of the landmark Civil Rights Act of 1964, and impede the movement toward integration of the country's schools which, for the most part, has occurred peacefully and without busing.

Twenty-one years ago, the Supreme Court of the United States in the historic Brown decision, ordered an end to the segregation of pupils by race on the grounds that such education was inherently unequal.

Repeatedly, since that time, Congress has affirmed its commitment to equal, and to quality education for the Nation's children.

One of the most important actions which Congress has taken toward this end is passage of the 1964 Civil Rights Act.

Title VI of the act provides that no person shall, on the basis of race, color, or national origin, be deprived of the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

Title VI provides the Federal Government with the necessary tools to fulfill its constitutional duty to implement the 5th and 14th amendments of the Constitution.

What are these tools? Agencies which grant Federal assistance—in this case, we are talking primarily about HEW—are directed to issue rules and regulations to inform local school districts what they must do to conform with the requirements of title VI and with the 5th and 14th amendments. The agencies are directed to secure compliance with the regulations—preferably voluntary compliance—and to consult with and lend assistance to school districts to achieve desegregation. As a final resort, the agencies are given the enforcement power necessary to back up the regulations: they may terminate Federal assistance when it is justified.

Termination cannot occur, however, until after notice, hearings, and an express, deliberative administrative finding of noncompliance.

The tools provided to HEW by title VI enable it to pursue various alternatives to busing to achieve quality education.

And the Biden amendment will eviscerate title VI; it will prohibit HEW from using the options of title VI to avoid busing.

I have stated repeatedly that I am opposed to busing except as a last resort—when all other efforts to end segregation have failed. This is why I must oppose this amendment: it will nullify the more desirable, nonbusing means of achieving desegregation and quality education.

The American people should know that this amendment will in no way alter or stop busing plans such as those in Boston and Louisville which are generating so much public attention. These are court-ordered plans, which were mandated because all other alternatives—the alternatives of title VI—were not brought into play or failed to achieve desegregation. The Biden amendment would not affect such court orders, and thus would have no impact in Louisville or Boston.

Mr. President, the people of this country have recognized and courageously accepted the need to heal racial divisions and to end segregation. The process has not been easy or painless; the burdens of readjustment are very real.

Yet hundreds of school districts have made progress toward equality of educational opportunity. The Biden amendment will remove the Federal assistance and incentives which—in the overwhelming majority of school districts—made such progress possible without busing.

It is a cruel joke on those who are frustrated and opposed to busing to regard this measure as satisfying their demands. It does not do so.

It is a cruel joke on those who have acted or who are seeking to implement desegregation by means short of busing to deprive them of useful alternatives.

I hope that this amendment will not become law.

Mr. DOMENICI. Mr. President, I wish to say a few words to explain my vote last week on the Curtis amendment to the HEW/Labor Appropriations bill which would exempt employers having five or fewer employees from reporting requirements of the Occupational Health and Safety Act—OSHA.

Mr. President, during my tenure in the Senate, I have consistently resisted categorical exclusions of certain groups of businesses based on employee numbers. I realize that employee health and safety recognizes no numbers. Work environments must be safe for employees whether there are 2 or 100 workers.

On each of the previous occasions when this issue was raised, my vote was predicated on firm assurances that indepth hearings would be held on all the many problems with which the small businesses have been earnestly striving to comply. This is the third year, however, that this issue has been before the Senate. To my knowledge, the promised indepth hearings still have not produced any substantial changes in this law.

Through these years, in my conversations with businessmen in my State of New Mexico, it is obvious that the small businesses have unique problems not addressed in the present law. Squadrons of lawyers to decipher the law and vast resources of money to better accommodate space requirements are only two problem areas needing further attention by Congress. The very fact that after all these promises, we still have to take up the onerous $1,000 fine for the first nonserious offense on the floor of the Senate, rather than after committee hearings and with committee recommendations, is indicative of what I am saying.

I feel at this point I cannot continue to penalize small businesses for a lack of followthrough by Congress. The small businessman and woman is still being ignored.

The Curtis amendment offers but an attempt to exempt these smaller businesses from reporting requirements under the law until Congress addresses these unique problems. I trust that will be soon. I pledge my support to that end. I trust small businesses will in the interim adhere the best they can to correct and improve working conditions for their employees.

ORDER FOR RECOGNITION OF SENATORS FONG, HUGH SCOTT, ROTH, BELLMON, BROOKE, AND McCLURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized each for not to exceed 15 minutes and in the order stated: Mr. FONG, Mr. HUGH SCOTT, Mr. ROTH, Mr. BELLMON, Mr. BROOKE, and Mr. MCCLURE.

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

ORDER FOR RESUMPTION OF CONSIDERATION OF H.R. 8069

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the conclusion of the orders for the recognition of Senators, the Senate resume consideration of the pending business, the HEW appropriations bill.

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

Mr. NELSON. Mr. President, I wonder if we could have a brief quorum call? I might want to renew my unanimous-consent request on the amendment that the manager is willing to take. If I could have 3 or 4 minutes, maybe I could let the Senator know.

Mr. ROBERT C. BYRD. Very well.

Mr. President, can we have an understanding that there will be no more rollcall votes tonight so that Senators who have other engagements could know?

Mr. NELSON. I would not insist on one, if I get a unanimous consent to take it up. I do not know if anyone else will.

Mr. ROBERT C. BYRD. Very well.

Mr. NELSON. I think the Senator may ask the Senator from California.

Mr. ROBERT C. BYRD. May I ask the distinguished Senator from California, would it be safe to announce that there will be no more rollcall votes today?

Mr. CRANSTON. As far as I am concerned, fine.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senate will be in order. Will Senators kindly take their seats?

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 a.m. tomorrow morning. After the two leaders or their designees have been recognized, under the standing order, the following Senators will be recognized each for not to exceed 15 minutes and in the order stated: Mr. FONG, Mr. HUGH SCOTT, Mr. ROTH, Mr. BELLMON, Mr. BROOKE, and Mr. MCCLURE. Thereafter, the Senate will resume consideration of the bill, H.R. 8069, an act making appropriations for the Departments of Labor and Health, Education, and Welfare.

Mr. ALLEN. Mr. President, will there be any time for morning business?

Mr. ROBERT C. BYRD. I have not included that.

Does the Senator so wish?

Mr. ALLEN. Mr. President, will the Senator request 10 minutes for me at the bottom of the list then?

Mr. ROBERT C. BYRD. Yes.

ORDER FOR RECOGNITION OF SENATOR ALLEN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the six orders for the recognition of Senators tomorrow, Mr. ALLEN be recognized for not to exceed 15 minutes.

Mr. ALLEN. Ten minutes.

Mr. ROBERT C. BYRD. Fifteen minutes.

Mr. ALLEN. Fine. All right.

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

Mr. ROBERT C. BYRD. Mr. President, following the orders then, as I stated before, the Senate will resume consideration of the HEW appropriations bill, and rollcall votes are expected.

RECESS UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. tomorrow morning.

The motion was agreed to; and at 5:06 p.m. the Senate recessed until tomorrow, September 25, 1975, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 24, 1975:

INTERNATIONAL MONETARY FUND

Thomas Byron Crawford Leddy, of Virginia, to be U.S. Alternate Executive Director of the International Monetary Fund for a term of 2 years, vice Charles R. Harley, term expired.

DEPARTMENT OF DEFENSE

Edward Alan Miller, of Massachusetts, to be an Assistant Secretary of the Army, vice Norman R. Augustine, elevated.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Milton L. Luger, of New York, to be Assistant Administrator of Law Enforcement Assistance (new position, Public Law 93–415, September 7, 1974).

THE JUDICIARY

Ralph G. Thompson, of Oklahoma, to be U.S. district judge for the western district of Oklahoma, vice Stephen S. Chandler, retiring.

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, section 3370:

ARMY NURSE CORPS

To be colonel

Apodaca, E. B., xxx-xx-xxxx
Archer, Joan D., xxx-xx-xxxx
Aycock, Erline T., xxx-xx-xxxx
Beem, Maeceille, B. P., xxx-xx-xxxx
Bogley, Mary A., xxx-xx-xxxx
Belleville, R. A., xxx-xx-xxxx
Benn, Alyce J., xxx-xx-xxxx
Bennetts, Edith E., xxx-xx-xxxx
Bitting, Ellen B., xxx-xx-xxxx
Bresnahan, Clara M., xxx-xx-xxxx
Chambers, June L., xxx-xx-xxxx
Clarenbach, Carl D., xxx-xx-xxxx
Demuth, M. S., xxx-xx-xxxx
Dewan, Mary T., xxx-xx-xxxx
Ferrell, Mary I., xxx-xx-xxxx
Flory, Betty E., xxx-xx-xxxx
Gesell, Helene U., xxx-xx-xxxx
Gilbert, Vera A., xxx-xx-xxxx
Hagberg, Bertie L. E., xxx-xx-xxxx
Harmon, Gladys W., xxx-xx-xxxx
Heffernan, E. A., xxx-xx-xxxx
Hendrickson, N. E., xxx-xx-xxxx
Hensley, Gladys M., xxx-xx-xxxx
Ito, Dolly M., xxx-xx-xxxx
Kuehn, Dorothy M., xxx-xx-xxxx
Kurasch, Rosalind J., xxx-xx-xxxx
McEllistrim, Irene, xxx-xx-xxxx
Milian, Helen T., xxx-xx-xxxx
Moore, Alice K., xxx-xx-xxxx
Novitzky, Louise S., xxx-xx-xxxx
O'Rourke, M. H., xxx-xx-xxxx
Pauli, Mildred M., xxx-xx-xxxx
Randall, Dolores H., xxx-xx-xxxx
Robitaille, N., xxx-xx-xxxx
Sach, Ruth S., xxx-xx-xxxx
Satterly, Bertha E., xxx-xx-xxxx
Smith, Ruth N., xxx-xx-xxxx
Taylor, V. T., xxx-xx-xxxx
Tilman, Mary D., xxx-xx-xxxx
Tinetti, Teresa, xxx-xx-xxxx
Weghorst, E. E., xxx-xx-xxxx
Zimmerman, S. V., xxx-xx-xxxx

DENTAL CORPS

To be colonel

Belott, Joseph E., xxx-xx-xxxx
Blum, Leon, xxx-xx-xxxx
Bord, Donald K., xxx-xx-xxxx
Dell, Colman L., xxx-xx-xxxx
Harris, Sam C., xxx-xx-xxxx
Henderson, George W., xxx-xx-xxxx
Hinrichs, E. H., Jr., xxx-xx-xxxx
Jackson, Orvind R., xxx-xx-xxxx
Kendrick, Barnes R., xxx-xx-xxxx
Killip, Devore E., xxx-xx-xxxx
Lee, Chester W., xxx-xx-xxxx
Lewis, Houston A., xxx-xx-xxxx
Lipani, Charles S., xxx-xx-xxxx
Loyd, Marvin D., xxx-xx-xxxx
Meyer, Maurice W., xxx-xx-xxxx
Miller, Edward A., xxx-xx-xxxx
Mincer, Harry H., xxx-xx-xxxx
Overberger, James E., xxx-xx-xxxx
Potter, Daniel M., xxx-xx-xxxx
Schallhorn, Robert, xxx-xx-xxxx
Schooler, Charles C., xxx-xx-xxxx
Sidow, Krum P., xxx-xx-xxxx
Wells, Robert L., xxx-xx-xxxx
Williamson, Charles, xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Backup, Phillip, xxx-xx-xxxx
Bolgan, Frank J., xxx-xx-xxxx
Bove, Victor M., xxx-xx-xxxx
Boyd, Harry R., xxx-xx-xxxx
Brandenburg, J. H., xxx-xx-xxxx
Brill, Joseph B., xxx-xx-xxxx
Bushey, Robert H., xxx-xx-xxxx
Byerly, Wesley G., xxx-xx-xxxx
Cobb, Alton B., xxx-xx-xxxx
Doucette, John W., xxx-xx-xxxx
Geigerman, David J., xxx-xx-xxxx
Guevara, Santiago F., xxx-xx-xxxx
Harrison, Harold N., xxx-xx-xxxx
Hemmat, Amir H., xxx-xx-xxxx
Johnkins, Edmund A., xxx-xx-xxxx
Mohr, Elden L., xxx-xx-xxxx
Moyer, Donald G., xxx-xx-xxxx
Nash, Gerard K., xxx-xx-xxxx
Newman, Alex E., xxx-xx-xxxx
Oglesby, James E., xxx-xx-xxxx
Penner, Robert, xxx-xx-xxxx
Poe, Robert H., xxx-xx-xxxx
Pollock, Donald O., xxx-xx-xxxx
Richardson, B. A., xxx-xx-xxxx
Roth, Harold C., xxx-xx-xxxx
Schlueter, R. W., xxx-xx-xxxx
Skok, Paul, xxx-xx-xxxx
Stagnone, James J., xxx-xx-xxxx
Stockton, Robert L., xxx-xx-xxxx
Vaccarino, Frank P., xxx-xx-xxxx
Weber, Milton I., xxx-xx-xxxx
Wilhite, Joe L., xxx-xx-xxxx
Williams, Will L., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Anderson, Robert A., xxx-xx-xxxx.
Barco, Claude K., Jr., xxx-xx-xxxx.
Barry, James, xxx-xx-xxxx.
Bevilacqua, Joseph, xxx-xx-xxxx.
Bozic, William J., xxx-xx-xxxx.
Bracelin, Frank J., xxx-xx-xxxx.
Campbell, William E., xxx-xx-xxxx.
Carbonneau, Richard, xxx-xx-xxxx.
Carr, Alvin B., xxx-xx-xxxx.
Casola, Matteo A., xxx-xx-xxxx.
Cohen, Joel R., xxx-xx-xxxx.
Dotson, Aaron M., xxx-xx-xxxx.
Estep, Ralph D., xxx-xx-xxxx.
Esterbrook, K. J., xxx-xx-xxxx.
Finke, Daniel L., xxx-xx-xxxx.
Fox, Robert A., xxx-xx-xxxx.
Fransen, F. C., xxx-xx-xxxx.
Hall, Raymond W., xxx-xx-xxxx.
Hassel, Joe W., xxx-xx-xxxx.
Hicks, Charles F., xxx-xx-xxxx.
Horton, Jack V., xxx-xx-xxxx.
Markee, Joseph U., xxx-xx-xxxx.
Moody, William B., xxx-xx-xxxx.
Morgan, James M., Jr., xxx-xx-xxxx.
Okazaki, Tome, xxx-xx-xxxx.
Otis, Robert J., xxx-xx-xxxx.
Powell, Joseph R. J., xxx-xx-xxxx.
Pratt, Gordon M., xxx-xx-xxxx.
Reinfeldt, Phillip, xxx-xx-xxxx.
Sack, Gerald E., xxx-xx-xxxx.
Settles, David B., xxx-xx-xxxx.
Siegel, Louis F., xxx-xx-xxxx.
Souza, Louis J., xxx-xx-xxxx.
Spooner, George H., xxx-xx-xxxx.
Tamboli, Vito F., xxx-xx-xxxx.
Tillman, John V., Jr., xxx-xx-xxxx.
Veach, Thomas C., xxx-xx-xxxx.
Walsh, John H., xxx-xx-xxxx.
Webber, John C., xxx-xx-xxxx.
Williams, Dennis H., xxx-xx-xxxx.

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Feldman, Harold, xxx-xx-xxxx.
Schelper, Shirley A., xxx-xx-xxxx.
Sears, Teresa A., xxx-xx-xxxx.
Spelbring, Lyla M., xxx-xx-xxxx.
Tom, Geraldine Yung, xxx-xx-xxxx.
Waters, Irene E., xxx-xx-xxxx.

VETERINARY CORPS

To be colonel

Bell, John T., Jr., xxx-xx-xxxx.
Bierschway, C. J. Jr., xxx-xx-xxxx.

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, sections 3366 and 3367:

ARMY NURSE CORPS

To be lieutenant colonel

Andrews, Charles E., xxx-xx-xxxx.
Bauer, Annabel B., xxx-xx-xxxx.
Behanna, Evelyn N., xxx-xx-xxxx.
Bulin, Edward G., xxx-xx-xxxx.
Buzzard, Rita V. N., xxx-xx-xxxx.
Buzzell, Patricia L., xxx-xx-xxxx.
Callan, Ida M., xxx-xx-xxxx.
Carson, Callie, xxx-xx-xxxx.
Dodd, Leroy B., xxx-xx-xxxx.
Estes, Zane E., xxx-xx-xxxx.
Etten, Marion, xxx-xx-xxxx.
Galvin, Virginia A., xxx-xx-xxxx.
Higgins, Naomi K., xxx-xx-xxxx.
Kawiecki, Lorraine, xxx-xx-xxxx.
Kinsel, Sarah L., xxx-xx-xxxx.
Kirby, Paula F., xxx-xx-xxxx.
Kirkland, Ronald E., xxx-xx-xxxx.
Kuttner, Jean M., xxx-xx-xxxx.
Lary, Maurice H., xxx-xx-xxxx.
Mayo, Jeanne C., xxx-xx-xxxx.
McCormick, Robert E., xxx-xx-xxxx.
Mino, Thomas A., xxx-xx-xxxx.
Molder, Neil W., xxx-xx-xxxx.
Moran, Amanda H., xxx-xx-xxxx.
Pocklington, D., xxx-xx-xxxx.
Ricks, Lajoic J., xxx-xx-xxxx.
Schuler, Dolores A., xxx-xx-xxxx.
Siessmayer, William, xxx-xx-xxxx.
Slaugenhaupt, W., xxx-xx-xxxx.
Snell, Frank W., xxx-xx-xxxx.
Snover, Donald L., xxx-xx-xxxx.
Stafford, Crystal M., xxx-xx-xxxx.
Taylor, Carey B., xxx-xx-xxxx.
Vannostrand, R. H., xxx-xx-xxxx.
Yamabayashi, G., xxx-xx-xxxx.

DENTAL CORPS

To be lieutenant colonel

Bitar, Henry J., Jr., xxx-xx-xxxx.
Fevang, Matthew J., xxx-xx-xxxx.
Lenz, James H., xxx-xx-xxxx.
Mears, Kenneth J., xxx-xx-xxxx.
Moser, Tracy J., xxx-xx-xxxx.
Nutter, David J., xxx-xx-xxxx.
Roush, Richard C., xxx-xx-xxxx.
Thompson, Richard H., xxx-xx-xxxx.
Thompson, Robert E., xxx-xx-xxxx.
Williams, Arthur B., xxx-xx-xxxx.

MEDICAL CORPS

To be lieutenant colonel

Binard, Joseph E. C., xxx-xx-xxxx.
Colom-Alemany, Seba, xxx-xx-xxxx.
Evetts, George E., xxx-xx-xxxx.
Kravetz, Neil D., xxx-xx-xxxx.
Ross, Thomas H., xxx-xx-xxxx.
Safavian, Michael H., xxx-xx-xxxx.
Spring, James A., xxx-xx-xxxx.
Wilcox, Howard G., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Acevedo-Torres, P., xxx-xx-xxxx.
Bandyk, Anthony S., xxx-xx-xxxx.
Bardot, Donald F., xxx-xx-xxxx.
Bauscher, William A., xxx-xx-xxxx.
Belk, Horace J., xxx-xx-xxxx.
Bernstein, Sumner H., xxx-xx-xxxx.
Blackman, William C., xxx-xx-xxxx.
Brandes, Richard E., xxx-xx-xxxx.
Burkholder, E. R., xxx-xx-xxxx.
Champagne, Donald O., xxx-xx-xxxx.
Christensen, I. K., xxx-xx-xxxx.
Coleman, Howard M., xxx-xx-xxxx.
Copes, Wayne A., xxx-xx-xxxx.
Davis, Arthur L., xxx-xx-xxxx.
Delena, Joseph V., xxx-xx-xxxx.
Dotterer, Ronald N., xxx-xx-xxxx.
Doughty, William H., xxx-xx-xxxx.
Faria-Collazo, S., xxx-xx-xxxx.
Fast, Warren R., xxx-xx-xxxx.
Fini, Anthony F., xxx-xx-xxxx.
Fisher, Francis E., xxx-xx-xxxx.
Galloway, James W., xxx-xx-xxxx.
Ganger, Robert A., xxx-xx-xxxx.
Glennon, Cletus W., xxx-xx-xxxx.
Graham, Malcolm J. S., xxx-xx-xxxx.
Green, Calvin C., xxx-xx-xxxx.
Gumenuk, Daniel, xxx-xx-xxxx.
Guy, Alfred E., Jr., xxx-xx-xxxx.
Hayes, Richard L., xxx-xx-xxxx.
Hester, David A., xxx-xx-xxxx.
Jones, James R., xxx-xx-xxxx.
Jones, Robert G., xxx-xx-xxxx.
Katada, Makoto, xxx-xx-xxxx.
Latta, James E., xxx-xx-xxxx.
Linkfield, Robert L., xxx-xx-xxxx.
Mazzone, H. M., xxx-xx-xxxx.
McBerry, William C., xxx-xx-xxxx.
Mikutel, William S., xxx-xx-xxxx.
Mitchell, Melvin B., xxx-xx-xxxx.
Moore, Joseph A., xxx-xx-xxxx.
Newman, Jack, xxx-xx-xxxx.
Nowak, Phillip D., xxx-xx-xxxx.
Olson, Dean M., xxx-xx-xxxx.
O'Neill, John H., Jr., xxx-xx-xxxx.
Pepin, Leo A., Jr., xxx-xx-xxxx.
Perryman, James A., xxx-xx-xxxx.
Pierce, George L., Jr., xxx-xx-xxxx.
Puls, Otto R., xxx-xx-xxxx.
Ramsay, David J., xxx-xx-xxxx.
Repeta, Bruno H., Jr., xxx-xx-xxxx.
Restivo, Salvatore, xxx-xx-xxxx.
Richart, D. P., Jr., xxx-xx-xxxx.
Sawyer, Marvin N., xxx-xx-xxxx.
Sherrill, J. V., xxx-xx-xxxx.
Sims, George L., Jr., xxx-xx-xxxx.
Singer, Jerome R., xxx-xx-xxxx.
Smith, Harold K., xxx-xx-xxxx.
Springer, Bobby J., xxx-xx-xxxx.
Stout, Murray B., xxx-xx-xxxx.
Strieter, James F., xxx-xx-xxxx.
Tanaka, Stanley K., xxx-xx-xxxx.
Templeton, H. L., Jr., xxx-xx-xxxx.
Varese, Lewis J., xxx-xx-xxxx.
Walker, W. B., Jr., xxx-xx-xxxx.
Watterson, Burton, xxx-xx-xxxx.
Weber, Frederick P., xxx-xx-xxxx.
Willeke, Robert C., xxx-xx-xxxx.
Willman, James R., xxx-xx-xxxx.

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Bennett, N. M., xxx-xx-xxxx.
Lorusso, Nicholas D., xxx-xx-xxxx.

VETERINARY CORPS

To be lieutenant colonel

Olson, Leroy D., xxx-xx-xxxx.
Watt, Thomas L., xxx-xx-xxxx.

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 591–593, and 594:

DENTAL CORPS

To be lieutenant colonel

Lynn, Benjamin Z., xxx-xx-xxxx.

MEDICAL CORPS

To be lieutenant colonel

Anderson, David E., xxx-xx-xxxx.
Atkins, Raymond M., xxx-xx-xxxx.
Henshaw, Dan M., xxx-xx-xxxx.
Lenczyk, Joseph M., xxx-xx-xxxx.
Wilson, Douglas B., xxx-xx-xxxx.

The following-named officers for appointment in the Army of the United States, under the provisions of title 10, U.S.C., section 3494:

MEDICAL CORPS

To be colonel

Cotlar, Alvin M., xxx-xx-xxxx.

MEDICAL CORPS

To be colonel

Barr, Robert H., xxx-xx-xxxx.
Cardell, Jose E., xxx-xx-xxxx.
Collins, Charles D., xxx-xx-xxxx.
DeLaCerna, M. F., xxx-xx-xxxx.
Donahue, James, xxx-xx-xxxx.
Dowdy, James R., xxx-xx-xxxx.
Harrell, Jerry D., xxx-xx-xxxx.
Kolmer, John W., xxx-xx-xxxx.
Marsh, Verelyn H., xxx-xx-xxxx.
McNamara, Norbert, xxx-xx-xxxx.
Saglio, Jack W., xxx-xx-xxxx.
Schmidt, Werner F., xxx-xx-xxxx.

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., section 3385:

ARMY PROMOTION LIST

To be colonel

Bean, Marion D., xxx-xx-xxxx.
Browning, Wilmer, xxx-xx-xxxx.
Cotro-Manes, Paul N., xxx-xx-xxxx.
Delk, James D., xxx-xx-xxxx.
Farnsworth, H. R., xxx-xx-xxxx.
Ford, Robert S., xxx-xx-xxxx.
Lynch, James A., Jr., xxx-xx-xxxx.
Ruscello, Ralph J., xxx-xx-xxxx.
Schwanke, DeWayne J., xxx-xx-xxxx.
Sharrock, Sheldon E., xxx-xx-xxxx.
Waguespack, A. M., xxx-xx-xxxx.
Walters, Cecil J., xxx-xx-xxxx.

To be lieutenant colonel

Adams, Charles R., xxx-xx-xxxx.
Appleby, Robert H., xxx-xx-xxxx.
Austin, Joseph R., Jr., xxx-xx-xxxx.
Bennett, Richard G., xxx-xx-xxxx.

Coley, Arthur G., xxx-xx-xxxx.
Cowins, John P., xxx-xx-xxxx.
Cox, Donald D., xxx-xx-xxxx.
Dzialo, Raymond J., xxx-xx-xxxx.
Eagan, James R., xxx-xx-xxxx.
Elmer, Charles E., xxx-xx-xxxx.
Ford, Leland D., xxx-xx-xxxx.
Frankforth, John A., xxx-xx-xxxx.
Gant, Thomas E., xxx-xx-xxxx.
Hanson, Edward L., xxx-xx-xxxx.
Harman, Stanley L., xxx-xx-xxxx.
Hengel, Milton J., xxx-xx-xxxx.
Herron, Richard D., xxx-xx-xxxx.
Hettenbach, William J., xxx-xx-xxxx.
Jakubowski, E. R., xxx-xx-xxxx.
Johnson, Carol O., Jr., xxx-xx-xxxx.
Jolley, Robert H., xxx-xx-xxxx.
Lee, Vernon E., xxx-xx-xxxx.
Lueck, David H., xxx-xx-xxxx.
Malcom, Otis C., Jr., xxx-xx-xxxx.
Michaels, John, xxx-xx-xxxx.
Porter, John L., xxx-xx-xxxx.
Redmon, Billy E., xxx-xx-xxxx.
Reeves, Stanley G., xxx-xx-xxxx.
Riegel, Curtis E., xxx-xx-xxxx.
Scharine, Charles F., xxx-xx-xxxx.
Schober, Frank J., Jr., xxx-xx-xxxx.
Singleton, W. C., xxx-xx-xxxx.
Stough, George G., xxx-xx-xxxx.
Thrasher, Robert C., xxx-xx-xxxx.
Viney, John A., xxx-xx-xxxx.
York, Frederick A., III, xxx-xx-xxxx.

CHAPLAINS

To be lieutenant colonel

Conard, James M., xxx-xx-xxxx.

MEDICAL CORPS

To be lieutenant colonel

Burks, Willard G., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Calvert, Allen F., xxx-xx-xxxx.

HOUSE OF REPRESENTATIVES—*Wednesday, September 24, 1975*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Watch ye, stand fast in the faith, quit you like men, be strong.—I Corinthians 16: 13.

O God, our help in ages past, our hope for years to come, we pause in this quiet moment to become conscious of Thy presence and to receive from Thee strength for the day, wisdom for decisions to be made, and confidence to stand firm for what is right and true.

Keep our vision clear, our hearts pure, our thoughts positive, and our spirits courageous in these trying times.

Lead us and all people to the realm where good will shall reign, where righteousness shall be supreme, and where nations shall live together in freedom and in peace.

We ask this in the spirit of Him who is the Way, the Truth, and the Life. 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.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Heiting, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4005) entitled "An act to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the program authorized by that act."

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

H. Con. Res. 400. Concurrent resolution relating to the enrollment of the bill H.R. 4005.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2375. An act to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 3 months.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

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

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

There was no objection.

A DOUBLE TAX RIPOFF

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

Mr. KOCH. Mr. Speaker, one of the serious problems facing New York City and other municipalities is the increasing amount of tax delinquency by landlords. Landlords are refusing by the droves to pay their real estate taxes. Oftentimes, a landlord will simply walk away from a property after years of tax delinquency. The collection and enforcement of these taxes is a local responsibility, of course. But few people know that these landlords are getting away with a double ripoff. The Federal Government is getting ripped off, too.

Let me explain. Many landlords involved in large-scale real estate syndicates use the accrual basis method in filing their Federal income tax returns, which allows deduction of local taxes when assessed, and not when they are paid. Hence, while these landlords fail to pay real estate taxes, they continue to declare these unpaid taxes as deductions, thereby reducing their Federal income taxes. Clearly, both localities and Federal Government are hurt by this outrageous practice. I say it must stop. To this end, I am introducing legislation today to correct this situation. The bill is a straightforward one. It would simply not allow these landlords to get away with deducting unpaid real estate taxes. The deduction would only be allowed when the taxes are actually paid.

The bill's approach is not unique. Presently in the Internal Revenue Code, accrual basis taxpayers may only declare deductions on charitable donations and political contributions when those contributions are actually made, and not when a commitment to give is pledged. I believe that we should hold landlords to this standard also.

This bill is not solely for the relief of New York City. It will provide the Federal Government with additional tax revenues, and end at least part of the double tax rip-off now going on.

CONGRESS SHOULD BEWARE OF $100 BILLION ENERGY CORPORATION

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

Mr. OTTINGER. Mr. Speaker, I rise to express my deep concern about the administration's proposal of a $100 billion energy corporation to be allowed to issue Government-backed securities and make expenditures in that huge sum without review of the Congress.

While I think it is essential that we proceed to develop alternative energy resources with all speed, I think that it would be a horrendous mistake for us to free that kind of money from public and congressional scrutiny and from an assessment of congressional priorities.

Beyond the establishment of priorities, it is vital that safeguards be established in providing any Government energy capital to prevent unjust enrichment of the huge international energy conglomerates that dominate the energy industries. It is also critical that adequate safeguards be established to protect the environment and to provide participation by affected State and local interests.

I hope the Members will give this their careful concern and attention. The proposal is patterned, I understand, on a program instituted by Vice President ROCKEFELLER made while he was Governor of New York. I just hope that it does not result in the Federal Government following that pattern for fear that what happens to the Federal Government may be the same as what happened to the State of New York—the accumulation of huge debt in New York and lack of control over State expenditures.